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ABSTRACT

The text of the general oversight hearings on the Indian Education Act contains letters, statements, and supplementary materials from representatives of Indian groups and schools. Prepared statements by the National Congress of American Indians and individuals from schools serving Indian students praise the Title IV program and protest the Administration's proposed cutbacks to Title IV and the Office of Indian Education. Remarks by Representative Dale E. Kildee, Acting Chairman of the Subcommittee, indicate support for the idea that the federal government's trust responsibility includes supporting education for Indian tribes. Statements from several speakers point out the importance of Title IV's insistence on active parent participation and the need in Indian education for parents to be recognized as integral factors in their children's lives. Statistics on the lives of Indians relocated to the San Francisco area are presented. Text of the second day of hearings covers the impact aid program and assistance it provides to public school districts on Indian reservations. Testimony from representatives of federal impact school districts and organizations calls for continuing federal impact aid at present levels or better. (MH)

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OVERSIGHT HEARINGS ON INDIAN EDUCATION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, D.C., ON
JUNE 21 AND 24, 1983

Printed for the use of the Committee on Education and Labor

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OVERSIGHT HEARINGS ON INDIAN EDUCATION

TUESDAY, JUNE 21, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:36 a.m., in room 2175, Rayburn House Office Building, Hon. Dale E. Kildee (acting chairman of the subcommittee) presiding.

Members present: Representatives Kildee, Ackerman, and Nielson.

Staff present: Jeff McFarland, majority assistant counsel; Alan Lovesee, counsel, and L. Brown Worthington, staff member.

Mr. KILDEE. The meeting will come to order. The Subcommittee on Elementary, Secondary, and Vocational Education is conducting a general oversight hearing on the Indian Education Act. This act is a vital source of funding for programs designed to meet the special educational needs of American Indian and Alaskan Native students.

I know from having visited some of the programs that Title IV enriches the educational experiences of Indian students in ways that many other programs cannot. We are fortunate to have with us a variety of witnesses from around the country. We appreciate their coming to Washington to assist us in our oversight efforts. Although they will not be testifying this morning, I understand that the National Congress of American Indians will be submitting a statement for inclusion in the record.

Without objection, that will be included.

[The prepared statement of the National Congress of American Indians follows:]

PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians, the nation's oldest and largest Indian advocacy organization, is pleased to submit the following comments in reference to recently held Education and Labor Committee hearings regarding the Indian Education Act (Title IV, Public Law 92-318).

The important contributions made by Title IV and the funding provided to Tribes and LEA s through Title IV need not be reiterated here. Ample documentation on these points has been provided in the testimony of the witnesses participating in the Hearings. NCAI would point out, as these witnesses have done, the uniqueness of the Indian Education Act within the legislative structure of the Department of Education. Title IV is the only piece of federal legislation designed to support programs which address the broad-ranged needs in Indian education as defined by Tribes, by local Indian communities, and by Indian parents. NCAI submits that the strength of the Act and the services it allows is to be found in that flexibility. Part A allows

LEA's, under consultation with Indian parents, to develop and implement special programs to meet the special needs peculiar to the Indian students enrolled within that LEA. Part B provides larger amounts of funding for demonstration projects and other programs aimed more at local capacity building than at immediate student services. Part C allows Tribes and LEA's access to much needed funding for purposes of Adult education, thereby helping to correct difficulties created by school programs which served parents' and grandparents' generations. Taken together, Parts A, B, and C are able to address Indian education concerns on a variety of levels and with a variety of impacts. It is the Tribes, the local Indian communities, and the Indian parents who decide the needs Title IV should address in each instance, not the Federal Register or the Department of Education rulemaking and regulatory authority. Here, as we have noted, lies the real contribution Title IV makes to Indian education.

NCAI recognizes that there are administrative and other problems associated with Title IV and the management of the programs it supports. The Part A eligibility issue continues to concern many of the federally recognized Tribes. The need for provisions guaranteeing Tribal accountability over the uses of Part A funding is frequently recommended. For some Tribes, the Administration's proposal for transferring Title IV and the Office of Indian Education out of the Department of Education and into the Department of the Interior seemed an appealing way to respond to these issues. And in some instances, the debate over the "transfer question" has still not been resolved.

The Tribes should be the ones to resolve these issues, not individuals, not organizations, and certainly not local, state or Federal agencies. And NCAI fully endorses the use of the consultation principle required under the terms of the government-to-government relationship described in the White House Policy Statement on Indian Affairs dated January 24, 1983.

So NCAI objects in the strongest possible terms to the recent efforts by the Administration to terminate, weaken, undermine, or otherwise render ineffective the work of Title IV and the Office of Indian Education. Earlier versions of this strategy included the claim that Title IV Part A services overlap and duplicate services provided under the Department of Interiors Johnson-O'Malley program; the claim that Title IV has already done its work in Indian education, and can now be terminated as a reward for its success; and the claim that Title IV has had no measurable effect on quality of Indian education and therefore should be eliminated in favor of increased support under Chapter I or related programs. These claims have been advanced as a part of the Administration's budget requests; and each time, the claims have been used as justifications for Administration-recommended reductions in Title IV funding levels for the coming fiscal year. Congress has, in every instances, seen through the shallowness of these arguments and has continued to appropriate funding for Title IV programs in spite of Administration pressures to the contrary.

Now it appears that the Administration is attempting to side-step the clear intention of the Congress and to bring about the termination of Title IV and the Office of Indian Education on its own. The Administration is doing this through a massive Reduction in Force (RIF) within the staff of the Office of Elementary and Secondary Education programs. 50 positions in OESE are to be eliminated, 25 of which are scheduled to come out of the Office of Indian Education. Then, to make the situation even more serious, remaining staff are to be given new job descriptions and new job titles. Staff will now be classified as "education specialists", not as specialists in Indian education, in the education of the Handicapped, or in the education of Migrant children. This allows the Department, if it wishes, to consolidate staff resources between these programs. And that, once effected, opens the door for Administration proposals to consolidate the funding for all of these Elementary and Secondary programs.

There may be some benefit, from the point of view of the LEA's, in seeing such consolidation emerge. But from NCAI's point of view, consolidation virtually guarantees the termination of Title IV and the elimination of the unique services Title IV programs provide in the education of Indian students.

Tribes have not called for the consolidation of Title IV with Chapter I or other federal programs in education. Nor have Tribes called on the Federal government to terminate services currently provided in Indian education under the terms of this Act. Congress itself has continued to ratify the importance of Title IV support in Indian education, by continuing to appropriate funding for these programs in spite of Administration pressure to the contrary. The Administration seems willing to disregard the wishes of the Tribes and of the Congress, in its haste to bring about the termination of the Indian Education Act. Such actions are hardly consistent with the promises made to the Tribes by the White House Policy Statement on Indian

Affairs last January. NCAI commends the Subcommittee on Elementary, Secondary, and Vocational Education for its maintenance of consultation principles.

INTEGRITY OF EDUCATION PROGRAMS IN THE U.S. DEPARTMENT OF EDUCATION

Problem statement

The President of the United States has announced his intention to dis-establish the U.S. Department of Education, in which the Office of Indian Education and other programs serving American Indians and Alaskan Natives are located. Therefore, the location and integrity of the Office of Indian Education, the programs in title IV of the Indian Education Act of 1972 Public Law 92-318), and all other programs serving American Indians and Alaskan Natives are in jeopardy. A plan will be submitted to the U.S. Congress in the immediate future.

Conclusions and recommendations

In the event the U.S. Department of Education is disestablished in the next year, the National Congress of American Indians recommends to the Administration and the U.S. Congress the following:

(1) That all programs established by Public Law 92-318, the Indian Educatien Act of 1972, Part(s) A, B, C and D within the Department of Education remain intact and that sufficient funds be provided to maintain the integrity of such programs.

(2) That all other programs serving American Indians and Alaskan Natives (i.e., Impact Aid, the 1 percent Indian Vocational Education Set-aside, Title III of the Higher Education Act, title VII of the Bilingual Education Act, etc.) remain intact and available and that sufficient funds be provided to maintain the integrity and service to such populations.

This position statement was adopted by unanimous vote of the General Assembly at the 38th annual convention of the NCAI, October 16, 1981, Anchorage, Alaska.

Mr. KILDEE. We will be pleased to receive their statements as well as those of other interested parties.

In order to facilitate a more wholesome discussion, I would ask the witnesses to come forward in panels. The first panel will consist of Miss Pam Hall, Indian education project director at the Putnam City Independent School District; Mr. Ben Ahrendt, Jr., superintendent of the Marty Indian School; Mr. Forrest Cuch, education director of the Ute Indian Tribe; and Mr. David Gipp, executive director of the United Tribes Educational Technical Center.

Let's come forward to the table here.

[Pause.]

Mr. KILDEE. We welcome you all here this morning. Just before you start I would like to give some of the recent history of title IV. In fiscal year 1982 the appropriation for title IV was almost $78 million, $77.9. In fiscal 1983, that dropped to $67.2 million. The administration has proposed for the coming fiscal year that that program be phased out and that it be funded at slightly over $1 million. That is the bad news, what the administration proposes. The good news is that the Interior Appropriations Subcommittee chaired by Congressman Yates has recommended that we not go along with the President's cut to reduce that and phase the program out, but that indeed we raise the appropriation to $71.2 million.

I think we have found that within the Congress working with people like yourselves that we have seen the merit of this program and your constant involvement with the Congress has been one of the reasons that we have been able to resist efforts to cut this program, and in this year to give a modest increase.

We appreciate, again, your continuing help to this committee and with the appropriations committee to achieve this.

So, you may proceed in any fashion that you have arranged among yourselves.

Pam Hall, do you want to go first? You are listed here first.

[Prepared statement of Pam Hall follows:]

PREPARED STATEMENT OF PAM HALL, PROJECT DIRECTOR, PUTNAM CITY SCHOOLS, OKLAHOMA CITY, OKLA.

Mr. Chairman and members of the Committee:

Needs: As Director of Title IV-A Projects for the past four years, I have seen many Indian students in the public school system fail and/or drop-out. In my opinion, a great deal of the Indian Student's problem is attendance, lack of motivation, self-defeating attitudes, academic deficiencies, and a lack of a positive self-concept. However, over the past four years, I have seen Indian students make educational accomplishments which would not have been made without the Indian Education Act (IEA) funds.

The (IEA) intent is still viable. Indian Students still have educational and culturally related academic needs. The diversity of programs through the (IEA) allows these needs to be met to a certain degree. Title IV-A services do not duplicate JOM, Chapter I, Bilingual Education, or the local school district. Title IV-A services are separate entities which would vanish without federal funding.

TITLE IV-A—STRENGTHS

Uniqueness of programs

Each LEA and Indian Parent Committee are allowed to identify specific needs of their Indian student population and direct services to meet those identified needs.

Indian parents are given an opportunity to realize the importance of their roles as parents and take a greater responsibility in that role in the education of their children.

Indian staff people are aware of an Indian student's needs and can form a liaison between the school and home in addressing those needs.

Indian students in financial need (free lunches guidelines) have educational related items made available to them to participate in classes and school sponsored activities to meet their academic needs.

Through tutorial services, Indian students exhibiting academic deficiencies can be provided an opportunity to have the teacher identify the area of deficiency and develop a plan to meet the individual need of the Indian student. Parents are kept informed of the child's academic status, progress made, and problems inhibiting their child's academic development.

Through counseling services students exhibiting attendance problems and/or academic deficiencies are given alternatives for meeting individual academic needs.

Through Indian Cultural Studies Progams Indian students are provided the opportunity to become aware of their culture. As students share their culture with their fellow classmates through assemblies and classroom presentations, they develop positive feelings which enhance their personal perception of themselves as Indian people. Indian Education staff assist regular classroom teachers in developing units on Indian Studies to implement in the classroom.

Through workshops held by Indian Education staff, Indian students and their parents are given an opportunity to learn personal skill development to enhance the Indian student's self-concept.

TITLE IV-A—WEAKNESSES

Appropriations by the Federal Government have forced programs to cut needed staff members, limit supplies, equipment, and services. The 1983-84 budget cut of 9 percent has forced programs to cut in areas of staff development, training, and consultants. In future years, programs need at least the present level of funding with inflationary rate increases.

Technical Assistance is needed to assist programs in developing programs which address needs. The Resource and Evaluation Regional Centers can provide technical assistance through workshops which address needs, objectives, evaluation, and monitoring. Projects need to share innovative ideas regarding Indian Education to improve present programs.

A formal grievance procedure needs to be developed to allow parents, project staff, and LEA an opportunity to resolve conflicts without a loss of program services to Indian students.

Lack of Indian Preference in running IEP in Washington.
Director for IEP in Washington to provide leadership, direction to projects and representation within the Education Department.
Lack of Indian Preference in some school districts hiring personnel.
Lack of Indian Studies Coordinators who have knowledge of traditional Indian culture and tribes.

POSITIVE IMPACTS—RESULTS OF TITLE IV SERVICES

Student (11th yr.) who was homebound for disruptive behavior was allowed to return to school and graduate.
Shy student (2nd Gr.) performed in front of 400 other students and invited non-Indians to round dance with her.
Resolved conflicts between parent and teacher/administrator (30) focusing on need of Indian child.
Student (12th yr.) who attended Drug Recovery Program through aid of Secondary Counselor and parent intervention.
Counselor providing classroom techniques for teacher to handle hyperactive Indian children on medication. (3 students)
Student (12th yr.) needing assistance in finding summer job.
68 percent of secondary Indian students receiving failing grades improved to pass courses.
75 percent of secondary Indian students having excessive absenteeism of 5 days or more improved attendance to less than 5 days per quarter.
Majority of students tutored, reached educational objectives.
Seven students who were lacking credit for graduation (83-84) attended summer school to initiate graduation.
Administrators, and teachers are more receptive to Indian Education classroom presentation to enrich students' understanding of Indian traditions, government and culture.

STATEMENT OF PAM HALL, INDIAN EDUCATION PROJECT DIRECTOR, PUTNAM CITY INDEPENDENT SCHOOL DISTRICT, OKLAHOMA CITY, OKLA.

Ms. HALL. I have worked with title IV-A projects for the past 4 years and during that time I have seen many changes come about through title IV funds. I think a great deal of the problems of Indian students are caused by their lack of attendance, their lack of motivation, their self-defeating attitudes, academic deficiencies, and a lack of a positive self-concept.

In the last 4 years I have seen many of these students make educational accomplishments due to Indian Education Act funds. I believe that the program is still viable, that we still do have educational and culturally related academic needs within our Indian youth.

The Indian Education Act allows individual programs to look at their basic needs within their community and to develop programs which address those needs. In our district, we are an urban community and those needs in our district are different than those in a rural setting.

I think some of the strengths of our programs is the fact that we can design our own programs to meet our own specific needs which may be rural or urban. Another strength is that the parents within our communities are given an opportunity to see what the problems are of their children and our schools and they try and develop an understanding of that problem and relate to it.

I think the core to our program at Putnam City Schools is our staff people. They do have an awareness of what the problems are with the students and they can relate to those students in addressing the needs of the student. We do have a student education fund

which addresses students that do have special educational needs. These needs are related to items that they need in order to participate in classes and school-related activities.

We also have a tutoring program which addresses academic deficiencies that students exhibit. The tutors work very closely with the student, teacher and the parent in trying to provide a communication as to what the problem is, how they might best address that problem, and provide academic tutoring to help them meet whatever types of academic deficiencies that they might have. We also have a counseling program where we address attendance problems along with academic deficiencies.

We have an Indian studies program where the students have an opportunity to attend cultural classes which we offer after school and then, from these classes, the students turn around and provide teaching to their fellow students as to what they have learned from the classes. They share their culture with the non-Indian student which I think gives the student a positive self-concept as to what they are and what they are all about.

We also work along with the regular classroom teachers in providing in-services to how they might put together Indian units on Indian studies.

I think one of our major problems is that we have received a 9 percent cut for the next year and we have had to cut staff positions, we have had to cut travel, or we don't have as much money to attend staff development. We have had to also cut out some of our consultants who teach our after-school classes.

I think at the present time the present level of funding has already caused problems and if we are cut further we just cannot do what we have been doing.

We also need technical assistants to assist our programs in developing programs which address needs. We had a resource and evaluation regional center last year. This past year it was not funded and we did not have workshops or a chance to share our program ideas with other people throughout the State. I think that one of the needs that we have in administering projects is to be able to share what we are doing and understand what other programs are doing throughout our State or our region to find out if there are any ideas that they may have that may work better than what we are doing.

We need to develop a grievance procedure to allow the parents and the staff and the LEA a chance to resolve conflicts so that conflicts don't arise where students are not able to have a program.

I also believe that Indian preference should be used in running the office in IEP, in running projects and also in hiring staff that work for the Indian Education Department.

Some of the impacts that I have seen through our program are: We had a student who was a homebound student because he threatened the principal and he was labeled emotionally disturbed. This student was sent on a homebound basis and after we worked with the student on a homebound basis, provided him tutoring and counseling, the student was allowed to return to school and did graduate. I feel that without our help and that of the staff counselor, our tutoring, that student would have just never finished school.

We had a girl last year who participated in our after-school classes and she joined our dance troupe. This gal who was in the second grade later performed in front of about 400 children. At that time she went out to the student body and invited one of the little non-Indian girls to participate with her in a round dance, and at which time we had about half of the student body participating, which, I think, provides positive feelings amongst the Indian and non-Indian students.

I think the most impact that we have is in resolving conflicts between the non-Indians and the Indians—non-Indians, I mean the teachers, the principals, the school community will have situations where the parent is upset with the teacher because of something that has happened at school and we usually intervene and tell the parent, "Maybe this is an approach we can utilize in working out this problem, whereas it's to the best interest of the student." We have 100 percent luck in helping parents understand what the student's problem is and help the teacher to set down and develop an understanding as to how they might approach that need or problem of that child.

We have had a student who attended a drug recovery program through the aid of our secondary counselor and I feel that without our secondary counselor, who is identifiably Indian, being able to sit down and work with the parent as to how to approach the problem of the child and talk through the process of recovery, that it never would have been able to happen.

Our counselor has worked with teachers who have had hyperactive children in the classroom and with these children being on medication, it's very hard for a teacher to understand as to how they might work with the child in the classroom, and as to what types of techniques they might utilize in helping the child to control his behavior in the classroom. Our counselor will work with the teacher as well as the child as to how they might better set up classroom type activities.

Over the last year, our secondary counselor worked with students quarterly on grades and attendance. What he did was he identified those students that were failing and that were having attendance problems, and worked with them on a weekly basis as to how they might change that status. On attendance, we had 75 percent of the secondary students that had excessive absenteeism rates of 5 days or more, improve their attendance to less than 5 days per quarter through the counseling process.

Sixty-eight percent of the Indian students that were failing improved their grades throughout the school year. During the first quarter we had 32 percent of the students that were failing increase in their grades, due to counseling services. The second quarter it increased to 48 percent and then the last quarter it was 68 percent.

So you can see that throughout the year there was an increase in the number of students that were achieving and that were doing better in school due to a result of counseling and tutoring services that were offered to those students.

We tutored students in elementary as well as secondary and the student's tutor and their teacher wrote instructional objectives as to what each student needed, according to their teacher. The teach-

er would tell why they were failing in a course and the majority of these students reached those objectives that were written. We wrote these over a 3-week period.

The administration and the teachers in our district have become a lot more receptive to our programs. They are just starting to open some doors as to accepting what we are trying to tell them; We do need to look at individual needs of students and understand what their problems are and help to resolve those problems.

I think, if anything, what's hurting us is the cut in our budgets. We have been able to train staff members and look at new ways of doing things and now we are told that next year we won't be able to travel and we are receiving a cut in all areas.

Mr. KILDEE. All right. Mr. Ahrendt.

[Prepared statement of Ben Ahrendt, Jr. follows:]

PREPARED STATEMENT OF BEN AHRENDT, JR., SUPERINTENDENT OF SCHOOLS, MARTY INDIAN SCHOOL

I, Ben Ahrendt, Jr., superintendent of schools, Marty Indian School, Marty, South Dakota, wish to testify in behalf of the title IV program. My background in education consists of twenty eight years of both public schools and Indian contract schools as a teacher, principal, and superintendent. This gives me an educational background which helps me to understand all facets of education, kindergarten through twelfth grade.

Our school is a boarding school to which students come from varied backgrounds with varied problems from many reservations and several States.

The Marty Indian School has, at this time, a substance abuse program under part A—entitlement grant. The program is designed to educate, counsel and train staff, provide community services in alcohol and non-prescriptive drugs.

The first service is in the area of preventive education. The alcohol and drug centered curriculum, "Here's Looking at You Two" is presented in a formal classroom setting in grades K-12.

The curriculum is designed to help young people develop positive values, skills in communication, positive role model images, self explanation, and an honest and comprehensive knowledge of the positive and negative use of chemicals in our society. During the next school year 1983-84, there will be a 12-hour course segment on the South Dakota D.U.T. offender program curriculum.

The second phase of the treatment program is the counseling services offered to the Marty Indian School students who have conflicts involving the abuse of alcohol and drugs. Students receive counseling for a period of four to six weeks and then are seen on a periodic basis for the remainder of the school year. Counseling services were made available to forty-two students and three overdose crisis intervention involvements.

The substance abuse intervention program offers supportive services to the program. Inservice training workships, which were advertised and open to all members of the community. These workshops were conducted by James Brown and William Pike, both instructors at the University of South Dakota at Vermillion and John Johnson, mental health worker at the public health hospital in Wagner, S.D. The topics were human relations, pharmacology, and the family structure. All staff were invited and the staff working in the dormitories, counselors, and intensive residential guidance staff were required to attend.

The outpatient referral system is the fourth level of service. In the past year several referrals were made from students, staff and community to the V.A. hospital, Marian Health Center—Sioux City, Iowa, and the chemical dependency unit at the Rapid City General Hospital. The program offers the patient and his family counseling, educational, legal, family and employee help upon discharge from the facility.

The fifth level is that the program director serves as a community resource person; our program is being studied and plans made to adopt the curriculum at a public school.

The projected future is expanded services and attempting to make the public aware of the fetal alcohol syndrome through meetings, films, and counseling with various communities and schools.

Under title IV Public Law 92-318—CFDA 84.061 part 186, planning pilot and demonstration projects for Indian children. The name of the project is "Marty Com-

prehensive Health Program". The primary goal of the project is to develop a program to effectively eliminate the high incidences of adolescent pregnancies, to promote personal hygiene habits and to develop a comprehensive elementary and secondary health education course, which would not be available to them under the normal school operations. This is a demonstration project for other Indian schools. Without title IV funds or other external funds to establish a health program it would have to be forgotten and then the academic program would be adversely effected as in the past.

The adult education center under the direction of Dr. Bob Burian shared support in behalf of adult education on the Yankton Sioux Reservation.

It is very critical that the title IV part C—(adult education) services be funded. Each year since 1972 over one-hundred American Indians have been enrolled in the Yankton Sioux Tribe's adult education courses. They have received instruction in the basic literacy skills. Each year from this group thirty to fifty adult American Indians earn their high school equivalency diploma (G.E.D.). Without this funding there will be no adult education services on the Yankton Sioux Reservation of South Dakota.

Two local public schools, bordering the Yankton Sioux Reservation, have shared their support for title IV funding.

At the Lake Andes School, Lake Andes, South Dakota their funds are used to secure a counselor that works with Indian students and white students to help bridge the gap of misunderstandings between the two groups. Benefits have been fewer dropouts, participation in more school activities and registration in more academic classes.

Without title IV funds the substance abuse program would be lost to the students and community.

(A) Rural and isolated area.

(B) Lack of funds.

(C) Private sources cut or lost because of economic conditions.

There is a dire need in our school and community for such a program.

Under title IV, part A—enrichment program our school has a student services supplemental program, under 84.0472.

This program is needed because we are a boarding school with approximately one hundred and twenty-five students that must be supervised and their needs met twenty-four hours a day, seven days a week. These students look upon "Marty as a home away from home". In many cases social services have placed these students here, law enforcement agencies have asked that the students be placed here, or home conditions because of poverty or parents with alcoholic problems, the students wish to be away from or the parents place them here so they will be cared for and given a good education.

The dormitories necessitate having many activities for the students in their spare time. These activities include, intramural basketball, softball, touch football, horseshoe pitching contests and social affairs, (dances, plays, speakers, etc.). The activities director plans, and carries these activities out so that students learn hobbies, and participate in physical activities to promote better bodies and minds.

Many of our parents have no transportation and being a rural area live miles from the school. Our home-school and social worker coordinator work closely with parents, furnishing transportation to and from school for parents so they can be involved in working out problems that arise from time to time with students. These services would not be available if it were not for title IV funding.

The Wagner School System also uses title IV funds to provide special counseling services for the Indian children, grades seven through twelve. Their goals and objectives are to help the Indian students become more involved in school activities and to help the Indian students remain in school and able to graduate from high school. It is felt by the school that without title IV funds many of the Indian students might not complete high school.

Without title IV funds the Marty Indian School would be affected in the following ways:

(1) The problem of substance abuse being nationwide, as well as reservationwide, our students and community members with substance abuse problems would continue to rise.

(2) Our students would not get the help and guidance when they do have a problem.

(3) The community would not have the opportunity to have our help in securing treatment and guidance after they return.

(4) Our parents would not have the opportunity to be at school when needed for educational problems with students because our student services provides this service.

(5) Activities for our students would not be of the high calibre to provide school time guidance and activities.

(6) Our health program would not be coping with pregnancies, dropouts, suicides, louse problems with students and parents homes.

(7) The mental stress of both girls and boys because of health problems and pregnancies which contribute to dropouts would continue if not be on the upturn.

The private sector has been canvassed for funds. Private grants and funds at this time are being cut back, because of economic conditions. Only those programs previously funded are being funded and in many instances those grants are being reduced.

Cutting of title IV funds will work a tremendous hardship on the Indian people. The solution to many of the problems facing the Indian people is lack of education. Without title IV funds you are crippling our Indian population. Education can and will help our native Americans. It is difficult enough for any boy or girl in todays economic world but it is certainly a lot more difficult for an Indian boy or girl.

To: Individuals/Groups Seeking Continued Funding of Title IV, Indian Education.

Our Title IV, Indian Education funds have been used to employ a School Counselor to work with the needs of Indian students.

I feel the program has been successful and loss of the program will hurt our students, both Indian and Caucasian.

The Counselor meets with individuals and small groups and has earned their trust. A number of times, Caucasian students go with the Indian students to the Counselor. One result has been a mutual understanding and respect for the other race. Other benefits include few drop-outs, participation in more school activities, and registration in more academic classes.

I would hate to see the program dropped.

Sincerely,

WILLIAM CARDA, *Supt.*

WAGNER COMMUNITY SCHOOL DISTRICT NO. 11-4,
Wagner, S. Dak., June 13, 1983.

U.S. DEPARTMENT OF EDUCATION,
Indian Education Programs,
Division of Program Operations,
Washington, D.C.

TO WHOM IT MAY CONCERN: I am sending this letter in support of and for continued funding of Title IV: Part A., Indian Education Act Programs throughout the US.

In our school (Wagner Community School #11-4, Wagner, SD) the funds are used to provide for special counciling service for the Indian children in grades 7-12. The goals and objectives of our program are to get the Indian students involved in school activities and to keep them in school for the full duration which will enable them to graduate from high school. Without these funds many of our Indian students would probably not complete high school or become involved in many of the school activities that help them to become a well-rounded person in our society.

I am sending a copy of this letter to our South Dakota Senators and Congressmen. If I can be of further help in keeping this funding intact, please feel free to contact me.

Sincerely,

DALE E. HALL,
Superintendent.

MARTY INDIAN SCHOOL,
Marty, S. Dak., June 14, 1983.

To: Individuals/Groups Seeking Continued Funding of Title IV, Indian Education.
From: Mr. Bob Burian, Adult Education Director.
Re: Title IV.

It is very critical that Title IV Part C—Adult Education Services be funded. Each year since 1972 over 100 American Indians have been enrolled in the Yankton Sioux Tribe's Adult Education Courses. They have received instruction in the basic literacy skills from 30-50 adult American Indians earn their High School Equivalency

Diploma (GED). Without this funding there will be no Adult Education Services on the Yankton Sioux Reservation of South Dakota.

Sincerely,

ROBERT J. BURIAN.

STATEMENT OF BEN AHRENDT, JR., SUPERINTENDENT, MARTY INDIAN SCHOOL, MARTY, S. DAK.

Mr. AHRENDT. Thank you, sir. My testimony today will focus on the dire need for the continued funding of title IV programs, for the needs of all Indian students. I want you to feel free to ask questions at any time, if you feel that you would like to, sir.

I, having 28 years of experience in both Indian schools and public schools with white students, feel that I have a background that is necessary to make the following testimony.

The Marty Indian School has, at this time, a substance abuse program. This program is designed to educate, counsel and train staff, and provide community services in alcohol and nonprescriptive drugs. The services are preventive education with a curriculum in K-12. This curriculum is designed to help young people develop positive values—this is of dire necessity, sir—skills in communication, role models, honest and comprehensive knowledge of the positive and negative use of nonprescriptive drugs, and counseling services to students.

Forty-two students and three overdose crises were taken care of by the counselor in the last year. Office supportive services to the staff and community, outpatient referral, and counseling, and the program director as a community resource person.

Under title IV, part A enrichment program, a supplemental program is in place. It provides the activities and funds for activities. We are a boarding school. Approximately 127 students stay there 7 days a week, 24 hours a day. Counselors for these dorms, student services, and dormitory supervisors, title IV, Public Law 92-318 CFDA 84.061 part 186, have planning pilot and demonstration projects for Indian children. We have a health program designed to develop programs to effectively eliminate the high rate of adolescent pregnancies, promote personal hygiene habits, and develop a comprehensive education course, K-12.

This is a demonstration project for other Indian schools. The adult education center at Marty is vital to hundreds of adults on the Yankton Sioux Reservation. This center is located at Marty and is instrumental in furnishing adult Indian people and securing their GED certificates.

Public schools in the locality use their title IV funds to secure counselors to work with the Indian students to prevent drop-outs, to encourage them to take more academic courses, and to help bridge the gap between Indian students and white students.

Cutting or eliminating title IV funds will have the following effects: Parents will not have the opportunities to part of the education program of the students. Many parents on our reservation have no transportation. Many parents are absent parents because we are a boarding school. Our students services provides this service. Our students will have no substantive youth programs to help with their alcohol and nonprescriptive drug problems. This is a big problem not only on the reservation but nationwide.

Our students will suffer because of the health program being designed to lower our adolescent pregnancies. Health problems of both the student and parents will not be resolved. Academics will suffer as a result.

A health curriculum needs to be designed which takes into account Indian medicine and modern medical technology. This curriculum requires time and a competent, certified person with a medical background. Without funds, this will be lost.

Without title IV funds to provide an activities director to provide a varied activity program, the students will become bored and AWOL's will rise. Academics will suffer if students are not kept busy.

Marty is a home away from home and the activities center for the community and dorm students. We are a rural area. Our students come to us many times from broken homes. Social services place students there, and from many areas faraway, the law also places students there. These students require lots of counseling care activities as we want them to be happy, do well academically, and be good citizens. This will be greatly reduced without title IV funds.

At this point in time, if the administration desires for Indian people to be self-sufficient, preserve their culture, language, and traditions, then title IV must be funded or this will be a great contributing factor for the failure of the administration to achieve these goals.

Private sources have been canvassed, sir, and because of the austerity of our economic conditions today, these funds are not forthcoming.

To sum it up, title IV funds that we spend today will save many times this amount in the future.

Thank you for your time and if you have any questions, I would be glad to answer them.

Mr. KILDEE. Thank you, Mr. Ahrendt. I would like to yield at this time to Congressman Nielson to introduce the representative of the Ute Tribe.

Mr. NIELSON. When I first got elected to Congress one of the first things I did was to go to Duchesne County and talk to Mr. Forrest Cuch of the Ute Indian Tribe.

He's a very bright young man and seems to me very well informed on education matters and business matters relating to the tribe and I was very much impressed. I have had the opportunity of meeting with him twice since that time, once in my office here in Washington and once in Roosevelt and I am certainly happy to have him here. Forrest Cuch is one of the leading young men of the tribe and has some very good ideas on education training there.

Mr. KILDEE. Mr. Cuch.

[The prepared statement of Mr. Cuch follows:]

PREPARED STATEMENT OF FORREST S. CUCH, EDUCATION DIVISION HEAD, UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION

Chairman and Members of the Sub-Committee on Elementary, Secondary and Vocational Education. My name is Forrest S. Cuch, Education Division Head for the Ute Indian Tribe. I am pleased to be here to present testimony on behalf of my tribe relative to the Indian Education Act (Title IV, Pub. Law 93-318, as amended).

The best way to illustrate the need and benefits of the Title IV Indian Education Act to Indian youth is to share my personal experiences in obtaining an education. I was born and raised on the Uintah and Ouray Reservation. I was blessed with kind and loving parents who were supportive of my education. My performance at the elementary level ranged from below average to average. At the second grade level I was placed in a remedial reading program which increased my reading skills substantially. At the junior high level, I was an average student and for the most part I struggled through the seventh and eighth grades. It was at this level that I began to experience an identity conflict, peer pressure and a general lack of emotional support from my teachers and peers. It was at this time that my mother convinced me to attend a private college preparatory school 200 miles from my home. My first year at this school was very tragic. I was academically behind most of the other students in all of my subject areas, excepting the non-academic areas. Nevertheless, I completed the school year and won many friends. The following year, I returned to the local public high school bordering our reservation. The school incidentally, was partially constructed with funds authorized through a special Congressional appropriation in 1951. My experience there convinced me that, in order for me to improve my life, I must obtain my education outside the local area. At this public school I experienced direct and indirect forms of racial discrimination. For instance, following my incorrect answer to a question given to an English teacher on the first day of school I was immediately transferred to a lower level English class referred to as the "C Class." In this class (mostly Indian students) we were given newspapers to read each day (usually outdated) while the English teacher sat in his desk reading the current newspaper. In a lot of ways this class represented a lot of fun and games, but it did very little in preparing me for the future. The following school year I returned to the same private school referred to above. There I experienced social acceptance which led to higher personal self-esteem resulting in academic and athletic success for the next two years. After graduating from this school, I enrolled in an affiliated college in Salt Lake City. I found my first year in college less challenging than my last year at the private high school. I graduated from college in four years, majoring in the Behavioral Sciences. Although I never graduated from high school or college with honors, I did graduate from both schools in the top one third of my class. Following graduation from college I returned to work for my tribe and I have worked for them to this day. My primary intent has been to share and make it possible for other young people of my tribe to receive the same or similar opportunities that I have experienced.

Mr. Chairman, the point I wish to make is this: I was very fortunate in being able to attend a private school which adequately prepared me for a college education. The fact is . . . not all young people of my tribe are able to afford this opportunity. However, it is my observation that the Title IV Indian Education Act Programs have been able to fill a void which existed during the earlier years of my education. It is unlikely that an Indian child will experience an identity conflict as I did with the current operation of the Title IV Part A project in the local schools at the present time. Also, it is more likely that continued emphasis upon parent involvement under the Title IV projects will continue to generate greater parental support for the education of Indian children. In short, Title IV did not benefit me directly, but it has served as an excellent vehicle in my attempt to help others of my tribe. It is further my belief that the power to eradicate injustices in the school system lies with the parents. Consequently, it is through the Title IV Indian Education Projects that educational equality for Indian children can be achieved.

Now, I would like to share with you the developments that have transpired with regard to this Act and its effect upon my tribe since my appointment to this position ten years ago. In 1973, there were no certified Indian teachers, teacher aides, cooks, bus drivers or janitors working in the schools predominantly attended by Ute Indian students (grades 1-12). Further, there were no tribal representatives on any of the local school boards serving Ute Indian students from the Ute Reservation. According to the 1970 Bureau of Census Report, 56 percent or approximately 511 of the adult Indians in the reservation did not possess a high school diploma or its equivalent. Also, while efforts were initiated to develop a Ute history textbook and course for Indian students under the Title I Program, actual instruction in Ute history was not initiated prior to this time.

I am happy to report that in 1983, education programs and services for Ute children have changed quite dramatically:

TEACHER TRAINING

There have been a total of six tribal members obtain Bachelor's Degrees in Elementary Education from Brighan Young University under the Title IV Part B, Ute Tribe Teacher Training Program. This represented a 60 percent completion rate for our first project. With the exception of one teacher who chose to work for the Ute Indian Tribe under the Title IV, Part C Adult Basic Education Program, all of the above teachers presently work in local schools serving Ute Indian children.

The primary objective of the second Ute Tribe Teacher Training Program was to produce six certified Ute teachers with Bachelor's Degrees in Elementary Education and ten Ute trainees with Associate Degrees in Secondary Education, by 1983. A total of eight teacher trainees received their Associate Degrees under this project. These trainees are continuing their education, even though funding for this program has been discontinued this year. The completion rate for this second project was 40 percent. With one additional year, we would have graduated three (50 percent) certified Ute teachers with Bachelor's Degrees, and a toal of 12 (120 percent) with Associate Degrees for an overall completion rate of 85 percent over a four year period (1981 to 1984).

Of approximately thirteen trainees who withdrew or failed to complete the training program, all thirteen are employed in full-time positions with the Ute Indian Tribe, four of whom hold supervisory positions.

ADULT BASIC EDUCATION

Under the Ute Tribe Title IV Part C, Adult Basic Education Program, 61 Ute adults have received their General Education Development Certificate (GED) during the past three year grant period. A total of 124 have completed the driver training program and approximately 100 have completed training under the basic skills program.

During the past grant period (1982-83), the Ute Tribe ABE Program produced 34 GED recipients. With a goal of 30 GED's per year, this represents the first time that the Ute Tribe ABE Program has accomplished its goal, in fact, surpassed it (117 percent). Further, we still have 120 persons registered in our GED Program.

Mr. Chairman and members of the Committee, the point is this . . . it has taken us ten years to stimulate this level of interest among the Ute tribal members required to demonstrate this kind of performance under this program . . . and at the very same time . . . the funding for this program is being discontinued. The Reagan Administration has pulled the rug right out from under us.

PART A ENTITLEMENT PROJECT

Since 1973, Ute language and Ute cultural studies have been provided to Indian students attending secondary schools. The following courses and activities have been afforded to our students: (1) Ute history; (2) Ute language; (3) Tribe government; (4) Ute culture; (5) Indian Club; (Indian Week); (7) Indian counselor; and (8) Indian attendence.

Failure to re-enact the Title IV Indian Education Act will result in the tragic loss of all of these services to our youth. In short, it is my belief that Indian students do not suffer from learning disabilities in the school system, rather they suffer from an inability to learn in an irresponsive school system.

It is, therefore, critical that these supplemental services remain intact for Indian students attending public schools.

PARENT INVOLVEMENT

At present there are still no Ute representatives on any of the local school boards serving Ute Indian children. However, as a direct result of the Title IV Indian Education Act, three parent advisory committees for each of our Title IV Programs have been increasingly active in Indian education activities in the local schools. During the ten year period, one Indian representative has served as president of one of the local PTA's. During the past year a Ute tribal member also held office as secretary of the local PTA.

Although the Ute Indian Tride relies largely upon the BIA Education Program for higher education support services, the Title IV Indian Education act (Teacher Training Program) has had a significant impact upon the number of college graduates over the ten year period (1973 to 1983).

COLLEGE GRADUATES/PROFESSIONAL AND HIGHER EDUCATION, 10-YEAR COMPARISON

Degree	1973	1983	Title IV contribution	Percent increase
Associate's	1	19	[1] 8	90
Bachelor's	4	26	[2] 6	74
Master's	1	6	0	72

[1] 42 percent.
[2] 23 percent.

As you can see above, the Title IV Indian Education Act has contributed to 42 percent of the increase of Ute students receiving Associate's Degrees and 23 percent of the increase of Ute students receiving Bachelor's Degrees during the ten year period.

The only changes that we recommend in the Title IV Legislation are:

(1) We believe that authorization should be granted to allow Indian tribes the option of allowing the LEA (local education agencies) to administer the Part A projects or allowing the Indian tribes direct administrative control of the projects. We recommend that the legislative language be specific with reference to the term "optional" because we realize that not all Indian tribes can or will desire to assume direct responsibility for project operations. We also recognize that many LEA's are making a valiant effort to deliver these services to Indian students.

(2) We recognize the importance of the National Advisory Council for Indian Education and their policy role governing these programs. We also believe that their policy role only applies to the Title IV Indian Act Programs. We do not believe that NACIE should establish national policy for Indian education. NACIE's coordination with education programs under the Department of Interior is encouraged. However, we believe that National policy in Indian education must be established and fully sanctioned by the Federally Recognized Indian Tribes.

In closing, the Ute Indian Tribe strongly urges that the U.S. Congress make these supplemental services available to our young people. Education is crucial for attaining self-sufficiency and imperative to making Indian self-determination a reality. It is our conviction that successes in economic development cannot and will not happen without human development first. We have just begun our journey. Please do not cut us off at the start.

STATEMENT OF FORREST CUCH, EDUCATION DIRECTOR, UTE INDIAN TRIBE, FORT DUCHESNE, UTAH

Mr. CUCH. Thank you for that wonderful introduction, Representative Nielson. I appreciate it. This testimony is presented on behalf of the Ute Indian Tribe of the Uintah and Ouray Reservation, State of Utah.

Mr. Chairman, Members of the committee, my name is Forrest Cuch, education division head for the Ute Indian Tribe. I am pleased to be here today to present testimony on behalf of my tribe relative to the Indian Education Act.

Perhaps the best way to illustrate the need and benefits of the title IV Indian Education Act to Indian youth is to share my personal experiences in obtaining an education. I was born and raised on the Uintah and Ouray Reservation. I was blessed with kind and loving parents who were supportive of my education. My performance at the elementary level ranged from below average to average. At the second grade level I was placed in a remedial reading program which increased my reading skills substantially.

At the junior high level, I was an average student and, for the most part, I struggled through the seventh and eighth grades. It was at this point that I began to experience an identity conflict, peer pressure, and a general lack of emotional support from my teachers and peers.

It was at this time that my mother convinced me to attend a private college preparatory school 200 miles from my home. My first year at this school was very tragic. I was academically behind most of the other students in all of my subject areas except in the nonacademic areas.

Nevertheless, I completed the school year and won many friends. The following year I returned to the local public high school bordering our reservation. This school, incidentally, was partially constructed with funds authorized through a special congressional appropriation in 1951.

My experience there convinced me that in order for me to improve my life, I must obtain my education outside the local area. At this public school, I experienced direct and indirect forms of racial discrimination. For instance, following my incorrect answer to a question given to an English teacher on the first day of school, I was immediately transferred to a lower level English class, referred to as the "C class". In this class, mostly Indian students, we were given newspapers to read each day, usually outdated, while the English teacher sat at his desk reading the current newspaper.

In a lot of ways this class represented a lot of fun and games, but it did very little in preparing me for the future.

The following year I returned to the same private school referred to above. There I experienced social acceptance which led to higher personal self-esteem resulting in academic and athletic success for the next 2 years. After graduating from this school, I enrolled in an affiliated college in Salt Lake City.

I found my first year in college less challenging than my last year in the private high school. I graduated from college in 4 years majoring in the behavioral sciences. Although I never graduated from high school or college with honors, I did graduate from both schools in the top one-third of my class.

Following graduation from college, I returned to work for my tribe and I have worked for them to this day. My primary intent has been to share and to make it possible for other young people of my tribe to experience the same or similar opportunities that I have experienced.

Mr. Chairman, the point I wish to make is this. I was very fortunate in being able to attend a private school which adequately prepared me for a college education.

The fact is, not all young people of my tribe are able to afford this opportunity. However, it is my observation that the title IV Indian Education Act programs have been able to fill a void which existed during the earlier years of my education.

It is unlikely that an Indian child will experience an identity conflict as I did with the current operation of the title IV, part A projects in the local schools at the present time. Also, it is more likely that continued emphasis upon parent involvement under the title IV projects will continue to generate greater parental support for the education of Indian children.

In short, title IV did not benefit me directly, but it has served as an excellent vehicle in an attempt to help others of my tribe.

It it further my belief that the power to eradicate injustices in the school system lies with the parents. Consequently, it is through

the title IV Indian education projects, that educational equality for Indian children can be achieved.

Now I would like to share with you the developments that have transpired with regard to this act and its effect upon my tribe since my appointment to this position 10 years ago. In 1973 there were no certified Indian teachers, teacher's aids, bus drivers, or janitors working in the schools predominantly attended by Ute Indian students, grades 1 through 12.

Further, there were no tribal representatives on any of the local school boards serving Ute students from the Ute Reservation. According to the 1970 Bureau of Census report 56 percent or approximately 511 of the adult Indians on the reservation did not possess a high school diploma or its equivalent.

Also, while efforts were initiated to develop a Ute history textbook and course for Indian students under the title I, now chapter I program, actual instruction in Ute history was not initiated prior to this time. I am happy to report that in 1980 education programs and services for Ute children have changed quite dramatically.

There have been a total number of six tribal members obtain batchelor's degrees in elementary education from Brigham Young University under the title IV part B, Ute Tribe teacher training program. This represented a 60-percent completion rate for our first project. With the exception of one teacher who chose to work for the Ute Indian Tribe under the title IV part C adult basic education program, all of the above teachers presently work in local schools serving Ute Indian children.

The primary objective of the second Ute Tribe teacher training program was to produce six certified Ute teacher with bachelor's degrees in elementary education and 10 Ute trainees with associate degrees in secondary education by 1983. A total of eight teachers received their Associate Degrees under this project. These trainees are continuing their education even though funding for this program has been discontinued this year. The completion rate for this second project was 40 percent.

However, with one additional year we would have graduated three—that's 50 percent—certified Ute teachers with batchelor's degrees and a total of 12, 120 percent, with associate degrees, for an overall completion rate of 85 percent over a 4-year period, 1981 to 1984.

Of approximately 13 trainees who withdrew or failed to complete the training program, all 13 are employed in full-time positions with the Ute Indian Tribe, four of whom hold supervisory positions.

Under the Ute Tribe, title IV, part C, adult basic education program, 61 Ute adults have received their general education development certificate during the past 3-year grant period. A total of 124 have completed the driver's training program and approximately 100 have completed training under the basic skills program.

During the past grant period, 1982–83, the Ute Tribe adult basic education program produced 34 GED recipients. With a goal of 30 GED's per year, this represents the first time that the Ute Tribe adult basic education program has accomplished its goal, in fact, surpassed it, 117 percent.

Further, we still have 120 persons registered in our GED program. Mr. Chairman and members of the committee, the point is this: It has taken us 10 years to stimulate this level of interest among the Ute Tribal members required to demonstrate this kind of performance under this program. At the very same time, the funding for this program is being discontinued.

The Reagan administration has pulled the rug right out from under us.

Part A, entitlement projects.

Since 1973, Ute language and Ute cultural studies have been provided to Indian students attending secondary schools. The following courses and activities have been afforded to our students—Ute history, Ute language, tribal government, Ute culture, Indian Club, Indian Week, Indian counselor, and Indian attendance.

Failure to reenact the title IV, Indian Education Act, will result in the tragic loss of all of these services to our youth. In short, it is my belief that Indian students do not suffer from learning disabilities in the school system. Rather they suffer from an inability to learn in an irresponsive school system.

It is therefore critical that these supplemental services remain intact for Indian students attending public schools.

At the present time there are still no Ute representatives on any of the local school boards serving Ute Indian children. However, as a direct result of the title IV, Indian Education Act, three parent advisory committees for each of our title IV programs have been increasingly active in education activities in the local schools.

During the 10-year period, one Indian representative has served as president of one of the local PTA's. During the past year a Ute tribal member also held office as secretary of the local PTA. Although the Ute Indian Tribe relies largely upon the BIA education programs for higher education support services, the title IV, Indian Education Act has had a significant impact on the number of college graduates over the 10-year period, 1973–83.

I have a chart here which indicates that in 1973, there was one person with an associate degree, four people with bachelor's degrees, and one person with a master's degree.

In 1983, there are 19 members of my tribe who hold associate's degrees, 26 hold bachelor's degrees, and 6 of my tribe members hold master's degrees.

The title IV, Indian Education Act contributed to 42 percent of the increase of Ute students receiving associate degrees and 23 percent of the increase of the Ute students receiving bachelor's degrees during this 10-year period.

The only changes we recommend in the title IV legislation are: We believe that authorizations should be granted to allow Indian tribes the option of allowing the LEA, local education agencies, to administer the part A projects or allowing the Indian tribes direct administrative control of the projects. We recommend that the legislative language be specific with reference to the term "optional" because we realize that not all Indian tribes can and will desire to assume direct responsibility for project operations.

We also recognize that many LEA's are making a valiant effort to deliver these services to Indian students.

Two, we recognize the importance of the National Advisory Council for Indian Education and their policy role governing these programs. We also believe that their policy role only applies to the title IV, Indian Education Act program. We do not believe that NACIE should establish national policy for Indian education.

NACIE's coordination with education programs under the Department of the Interior is encouraged, however, we believe that national policy on Indian education must be established and fully sanctioned by the federally recognized Indian tribes.

In closing, the Ute Indian Tribe strongly urges that the U.S. Congress make these supplemental services available to our youth. Education is crucial for attaining self-sufficiency and imperative to making Indian self-determination a reality.

It is our conviction that successes in economic development cannot and will not happen without human development first. We have begun our journey. Please do not cut us off at the start.

Thank you.

Mr. KILDEE. Thank you, Mr. Cuch. In my next trip to visit the Indian nations I would like to include the Ute Indians and I would like to work with you to arrange that.

Thank you very much for your testimony.

Our next witness is Mr. David Gipp, executive director, United Tribes Educational Techical Center, Bismarck, N. Dak.

[Prepared statement of David Gipp follows:]

PREPARED STATEMENT OF DAVID GIPP, EXECUTIVE DIRECTOR, UNITED TRIBES EDUCATIONAL TECHNICAL CENTER, BISMARCK, N. DAK.

Mr. Chairman, Thank you for the opportunity to submit this testimony for the record regarding the Indian Education Act, Title IV of Public Law 92-318, as amended.

INTRODUCTION

In 1972, Congress passed the Indian Education Act, commonly referred to as Title IV, to meet the special educational and culturally related academic needs of Indian children. This legislation was enacted in direct response to the findings of the Kennedy Report of 1969, "Indian Education: A National Tragedy—A National Challenge." High dropout rates, low academic achievement, low self-esteem, a lack of Indian teachers and administrators, and a lack of parental involvement in the schools were found to exist widely throughout the Indian population. Unfortunately, these findings were, by and large, merely a reiteration of the findings of the Meriam Report of 1928. Obviously, Indian education had seen little improvement during the 40 year period between these two reports.

BACKGROUND INFORMATION ON UTETC

United Tribes Educational Technical Center (UTETC) is a unique inter-tribal vocational-technical school. Located on a 105 acre campus three miles south of Bismarck,, North Dakota, UTETC is a state chartered non-profit corporation owned and operated by the five reservations located in whole or in part in North Dakota. These include Fort Berthold, Fort Totten, Turtle Mountain, Standing Rock and Sisseton-Wahpeton. Control of the corporation is vested in a Board of Directors which is comprised of two members from each tribal council.

Originally established in 1969, UTETC has been in continuous operation for the last thirteen years. The last twelve years have been under Indian management. The student population of UTETC is drawn from 40 Indian tribes throughout the country.

Organized as the first tribally controlled residential vocational school in the nation, UTETC presently operates under the auspices of Public Law 93-638, the Indian Self-Determination and Education Assistance Act. UTETC is committed to the economic, social and cultural advancement of the Indian people. UTETC strives

to maintain a residential environment where all students are socially and culturally comfortable.

At the present time, UTETC is the recipient of three Title IV grants as well as a contract for the operation of the Resource and Evaluation Center II. The Theodore Jamerson Elementary School, located on the UTETC campus, administers both a Part A Entitlement grant and a Part B Educational Services grant. Up until the 1982-83 school year, the Part A grant focused on cultural enrichment but, according to the school's principal, "Then our needs changed." The Part A funds are now directed toward tutoring and served 64 students during the past school year. Participation in the program next year is anticipated to be 50 to 60 students.

The Part B grant, funded for 1982-83, provided a comprehensive counseling, physical education, health, and recreation program. This program served approximately 105 participants, both students in grades K-7 enrolled at Theodore Jamerson and their parents who are enrolled in vocational courses at UTETC. This program is stated by the principal as being very needed and very successful in fulfilling students' needs. Because the school is a small contract school under Public Law 93-638 the limited contract money available does not allow for the provision of comprehensive educational services. Without supplemental Title IV funding, these services would be nearly impossible to provide.

The third grant received by UTETC is funded under the Part C, Planning, Pilot, and Demonstration Program. This grant is being used to develop, test, and demonstrate educational methods, approaches, and techniques to improve the education of Indian adults.

In February 1982, UTETC was awarded the contract to operate the Nothern Plains Resource and Evaluation Center II. Center II provides training and technical assistance to Title IV grantees to ensure that Title IV programs are viable and cost effective. The Northern Plains Resource Center serves a total of 265 Title IV projects (fiscal year 1982 data) in eight states. Part A grants in this area alone number 210 and serve approximately 48,000 Indian students from 24 tribes.

OPPORTUNITIES PROVIDED BY TITLE IV FUNDS

During the past ten years of Indian Education Act funding, Title IV programs have worked to address many of the problems identified in the Kennedy Report. The largest share of funding is devoted to Part A—LEA Entitlement grants which serve Indian students in the public schools.

A unique, and important, feature of the Indian Education Act is that it provides for the identification of educational needs and a determination of program activities at the local level. Equally as important is that Indian parent committees are required to be involved in this determination process and have input in determining the direction of their children's education. Because of the existence of Title IV, Indian parents have begun to develop open and positive communication with the schools serving Indian children.

Part A programs provide a wide range of educational services, almost all of which address problems identified in the Kennedy Report. Common components of Title IV, Part A programs are counseling, home-school liaison services, and cultural enrichment programs. Such programs are intended to improve student self-concept and to make education culturally relevant to Indian children. Tutoring programs are also familiar and address the generally low academic achievement of Indian children.

During fiscal year 1982, Part A programs served a total of 357,354 Indian students. A major study assessing the impact Part A has had on these students has just been completed, but the final report is not yet available.

Programs under Parts B and C of the Indian Education Act provide additional services to Indian children and adults. Examples of the programs under Part B include the development of culturally-based curriculum materials and the provision of comprehensive educational services where none are otherwise available. Educational personnel development (EPD) programs, also under Part B, have enjoyed a high rate of success and have graduated large numbers of professional Indian educators many of whom might never have been able to complete their educational studies without the availability of these programs.

As an example, the University of South Dakota at Vermillion has produced 116 Indian professionals with graduate degrees in educational administration during its eight years of Title IV, EPD funding. Thirty-eight (38) of these graduates hold doctorates, the remaining 78 have master's degrees.

Part C programs serving Indian adults have enabled large numbers of people to obtain their high school equivalency diplomas. Additionally, curriculum materials

and teaching methods designed specifically for use with Indian adults have been and are being developed.

In fiscal year 1980, five regional Resource and Evaluation Centers were established to provide training and technical assistance to Title IV grantees. Assistance in writing measurable objectives, developing curriculum materials, and providing parent committee training are examples of the types of services provided by the Resource Centers. These services are relatively inexpensive, yet extremely valuable and comprehensive from the point of view of the grantees served. Such services held ensure that Title IV grantees are operating programs that are cost-efficient and that meet the identified needs of Indians.

STATEMENT OF CONCERNS

Title IV funding provides educational benefits to a large number of Indian people and has substantially improved the condition of Indian education. This has been a major task, but the task is incomplete. The problems identified by the Kennedy Report have been ameliorated somewhat, but they have not been eliminated.

Indian students still achieve well below national norms (see Appendix A). In North Dakota alone, 1,972 Indian students in grades K-12, out of a total Indian student pouplation of 3,334, participated in remedial programs because they were below the norms for achievement.[1] This means that 59 percent of the Indian students in the state have been assessed as being academically disabled.

Obviously, the schools are still lacking in their ability to meet the educational needs of Indian students and there is a desperate need for supplemental programs to address these needs. The Indian Education Act was designed specifically for this purpose. However, Title IV funding is currently authorized only through 1985 and President Reagan has recommended an fiscal year 1984 appropriation of only $1.2 million to close out the program. Reauthorization of the act is required if we expect to maintain at least the current status of Indian education and to produce any further gains.

Title IV programs are sometimes thought, by those not directly involved in Indian education, to duplicate other available school programs. However, applicants for Title IV are required to submit information about the availability of other educational services, to explain why such services, if available, are insufficient, and to coordinate their efforts with other available programs.

The Johnson O'Malley Program, funded through the BIA, is the most frequently mentioned "other program" when the issue of duplication of services is discussed. However, such duplication has been found to occur in only rare instances. In fact, the report of the GAO study of this "issue," released in June, 1981, was entitled, "Local Coordination *Prevents* Duplication of Services at Federally Sponsored Indian Education Projects [emphasis added]."

Only one of the sites included in the study was actually found to duplicate services, with 34 students receiving counseling from both programs, "several" students receiving school supplies from both, and "one student received a pair of shoes from each." At four other sites, GAO personnel identified only a "potential" for duplication of services because of a lack of coordination between the two programs' activities at the local level. Obviously, effective coordination at the local level does exist in most cases and can only serve to enhance the educational services available to Indian children.

When considering the issue of duplication of services, one must also keep in mind that the eligibility criteria of the Johnson O'Malley program are much more restrictive than those of Title IV. Consequently, Title IV monies provide services to a much greater number of Indian students than do Johnson O'Malley funds. Of the 1,135 sites funded under Title IV—Part A during the time of the GAO study, less than half (407) were identified as also receiving funds from Johnson O'Malley. In the remaining majority of sites, Title IV funds provided the only program designed specifically to address the special educational needs of Indian children. Reauthorization of the Indian Education Act is vital to continue meeting the needs of these children. The loss of Title IV would return Indian people back to an era where their education was determined by those who do not understand the cultural uniqueness of Indian people.

In addition to the need for reauthorization of the Act, the funding level for Title IV programs is also of great concern to those involved in Indian education. During the last few years, congressional appropriations for Title IV, Indian Education Act

[1] Source: Don Black, Bureau of Indian Affairs—Aberdeen Area Office, telephone conversation, June 1983.

programs have steadily decreased (see Appendix B). Elementary logic dictates that such cuts will affect the number and/or quality of programs funded under the Act.

For the Part A Entitlement program, the number of grants awarded appear to have stabilized at roughly 1,100 for the past few years (see Appendix C). With decreasing appropriations, then, individual schools receive fewer dollars and are forced to cut back or even eliminate some previously provided services.

With the discretionary programs (Part A—Indian Controlled Schools, Part B, and Part C), a reduced appropriation directly affects the number of projects that can be funded. In addition, ever-rising educational costs, attributable at least in part to inflation, result in more dollars being consumed by fewer of projects. This is most apparent when one compares the funding patterns for Part B projects during fiscal year 1976 and fiscal year 1982 (see Appendix C). In 1976, one-hundred thirty two projects were awarded approximately $15,400,000. Six years later, in 1982, half that number of projects (66) were funded for a total of approximately $11,000,000.

The declining number of projects funded under the discretionary programs, however, should not be construed as indicating a declining need for these programs. The demand for Indian Education programs is evidenced by the number of applications received for these programs, a number always much higher than the number actually funded. During recent years, the number of applications for discretionary programs has, at times, decreased but this is largely attributable to the discouragement and frustration of potential grantees who have faced the intense competition for available dollars and lost. Many potential grantees have simply given up any hope of ever being funded and have quit applying.

The declining appropriations for Indian education affect not only the number of Indian people and programs who can be served; federal appropriations also affect the administration of the Indian Education Program (IEP) in the Department of Education. Federal reductions in-force (RIFs) in early 1982 resulted in a large turnover in IEP personnel. Consequently, IEP has, since then, been staffed by a collection of people who have little knowledge of Indian education in general, little familiarity with the Title IV programs in particular, and, because they are for the most part non-Indian, little familiarity with the unique special educational and culturally related academic needs of Indian people. Also, federal RIFs have reduced the size of the IEP staff available to administer the Indian Education Program. In addition, the position of Director of IEP has been unfilled for nearly a year; the Acting Director of IEP is neither American Indian nor Alaskan Native. In summation, both the quality and quantity of the IEP staff are felt to be totally inadequate for meeting the needs of the program.

Because of the inadequacy of IEP staffing, it is vitally important that Title IV grantees receive proper technical assistance in operating their Title IV programs. The Resource and Evaluation Centers, funded since fiscal year 1980, provide this type of service; however, only three of the authorized five centers are currently in operation. Of a total of 1,272 Title IV projects, 508 do not currently have aces to Resource and Evaluation Center services (see Appendix D), Presumably, these projects not served by Resource and Evaluation Centers can receive assistance directly from IEP in Washington. However, the inadequacy of IEP staff discussed earlier, along with limited federal travel budgets, prevent the projects in Regions I and V from receiving the quality and quantity of services which other grantees receive from Centers II, III, and IV.

RECOMMENDATIONS

1. Because of the demonstrated need for, as well as benefits provided by, Title IV programs, the United Tribes Educational Technical Center (UTETC) strongly recommends that the Indian Education Act, Title IV of Public Law. 92-318 as amended be reauthorized, at least through 1989 as proposed in H.R. 11 as introduced by the Honorable Rep. Carl Perkins.

2. UTETC understands that the House Subcommittee on Interior Appropriations, chaired by the Honorable Rep. Sidney Yates, has set a mark-up of $71,243,000 for the fiscal year 1984 appropriations for Title IV Indian Education. We strongly recommend that the appropriations for Title IV Indian Education Act programs be set a level not less than the $71,243,000, mark-up established by the House Subcommittee.

3. UTETC recommends that Congress undertake a serious review of the staffing situation at the Indian Education Program (IEP) of the U.S. Department of Education and develop a plan to ensure that an adequate number of qualified professional staff is available to administer the program. Further, plans should be develped to promote the hiring of qualified Indian people to serve the IEP Staff.

4. UTETC recommends that Congress investigate the reason that the Directorship of IEP has remained unfilled for so long. We further recommend that the Director's position be filled as soon as possible with a qualified American Indian.

5. Because of the value of the services provided by the Resource and Evaluation Centers, UTETC recommends that the Resource and Evaluation Centers be maintained as an integral part of the Indian Education Act. We further recommend that the contracts for Centers I and V be awarded as quickly as possible so that these two centers can begin operating to provide the services that are so desperately needed in those two areas.

INDIAN STUDENT ACHIEVEMENT

[1979 SRA test data]

	Number of students	Average percentile		
		Reading	Math	Language arts
Grade 1	986	34	40	
Grade 2	789	32	52	26
Grade 4	764	24	24	23
Grade 6	779	26	18	27

Note.—This data covers all schools in North and South Dakota and selected schools in Montana which have a primarily Indian enrollment.
Source: Don Black, BIA—Aberdeen Area Office, telephone conversation, June 1983.

APPENDIX B

TITLE IV APPROPRIATIONS—EXCLUDING PROGRAM ADMINISTRATION

[In millions]

	Part A	Part B	Part C	Total
Fiscal year:				
1973	$11,500	$500	$500	$12,500
1974	25,000	12,000	3,000	40,000
1975	25,000	12,000	3,000	40,000
1976	35,000	16,000	4,000	55,000
1977	37,000	14,080	4,200	55,280
1978	38,850	14,400	4,410	57,660
1979	48,000	15,500	5,930	69,430
1980	52,000	15,600	5,830	73,430
1981	58,250	14,500	5,430	78,180
1982	55,000	14,800	5,200	75,000
1983	49,000	13,000	4,000	66,000

Note.—Part A appropriations: Cover both the LEA entitlement and ICS programs; Part B appropriations: Cover educational services, planning, pilot, and demonstration [PPD], educational personnel development [EPD], fellowship (since fiscal year 1976), and the resource and evaluation centers (since fiscal year 1980); Part C appropriations: Cover educational services and planning, pilot, and demonstration [PPD] programs.
Sources: 1973–80 data—U.S. Department of Education, annual evaluation report; 1981 data—Justification of appropriation estimates—Indian education—fiscal year 1982; 1982 data—Justification of appropriation estimates—Indian education—fiscal year 1983; 1983 data—Material accompanying statement by ED Sec. T. H. Bell, Jan. 31, 1983.

APPENDIX C

APPLICATIONS AND TITLE IV FUNDING BY PROGRAM

Fiscal year	No. of applications received	No. of applications funded	Funds obligated
	Part A Entitlement		
1973	547	435	10,952,366
1974	1,098	854	23,809,518.54
1975	1,169	845	22,727,273
1976	(1)	1,094	31,818,176.17
1977	(1)	(1)	(1)

APPLICATIONS AND TITLE IV FUNDING BY PROGRAM—Continued

Fiscal year	No. of applications received	No. of applications funded	Funds obligated
1978	1,136	1,101	35,250,448.43
1979	1,201	1,120	43,635,769
1980	1,162	1,135	46,922,070
1981	1,063	1,053	53,544,454
1982	1,119	1,114	50,412,505
Part A Indian Controlled Schools			
1973	(1)	10	547,618
1974	35	23	1,190,476
1975	45	25	2,272,727
1976	(1)	26	3,181,818
1977	(1)	(1)	(1)
1978	39	28	3,455,063
1979	39	31	4,363,636
1980	52	32	4,727,273
1981	48	31	4,729,305
1982	47	32	4,535,489
Part B PPD, EPD, and Ed. Services			
1973	(1)	51	5,000,000
1974	438	136	12,000,000
1975	442	149	12,000,000
1976	(1)	132	15,389,098
1977	(1)	(1)	(1)
1978	368	74	13,079,096
1979	317	82	14,001,059
1980	244	77	12,500,000
1981	198	70	12,500,000
1982	210	66	11,034,890
Part C Adult Education			
1973	(1)	10	500,000
1974	110	38	3,000,000
1975	140	53	3,000,000
1976	(1)	61	4,000,000
1977	(1)	(1)	(1)
1978	155	44	4,410,188
1979	119	60	5,930,037
1980	115	55	5,430,000
1981	107	51	5,429,999
1982	131	49	5,213,000

[1] Information not available.

Source: Office of Indian Education and NACIE (1st–4th and 6th–9th) annual reports.

Appendix D

NUMBER OF PROJECTS SERVED BY RESOURCE AND EVALUATION CENTERS

[Fiscal year 1982 data]

	Part A, LEA entitlement	Part A, Indian-controlled schools	Part B	Part C	Total
Center II	210	15	24	16	265
Center III	157	4	4	12	177
Center IV	270	11	27	14	322
Total	637	30	55	42	764

NUMBER OF PROJECTS NOT SERVED BY RESOURCE AND EVALUATION CENTERS

[Fiscal year 1982 data]

	Part A, LEA entitlement	Part A, Indian-controlled schools	Part B	Part C	Total
Center I area	186	1	12	7	200
Center V area	302	1	3	2	308
Total	482	2	15	9	508

Source: Center II files, telephone contact with centers III and IV, and U.S. Education Department RFP for centers I and V.

PART A LEA ENTITLEMENT GRANTS NUMBER OF PROJECTS AND NUMBER OF STUDENTS SERVED BY RESOURCE AND EVALUATION CENTERS

[Fiscal year 1982 data]

	Number of students in part A projects	Number of part A projects	Total number of title IV projects
Center II	47,974	210	265
Center III	42,965	157	177
Center IV	124,415	270	322
Total	215,354	637	764

PART A LEA ENTITLEMENT GRANTS NUMBER OF PROJECTS AND NUMBER OF STUDENTS NOT SERVED BY RESOURCE AND EVALUATION CENTERS

[Fiscal year 1982 data]

	Number of students in part A projects	Number of part A projects	Total number of title IV projects
Center I area	[1] 62,500	180	200
Center V area	[1] 79,500	302	308
Total	[1] 142,000	482	508

[1] At least.

Sources: Center II files, telephone contact with centers III and IV, and U.S. Education Department RFP for centers I and V.

STATEMENT OF DAVID GIPP, EXECUTIVE DIRECTOR, UNITED TRIBES EDUCATIONAL TECHNICAL CENTER, BISMARCK, N. DAK.

Mr. GIPP. Thank you, Mr. Chairman, members of the committee. I will summarize the statement that I have submitted to you for purposes of the record. As you know, in my case, I come from the United Tribes Educational Technical Center out of Bismarck, N. Dak. and that is an intertribally owned postsecondary vocational school, owned by the five tribes located on or within parts of North Dakota. Those include the Fort Berthold Reservation, Fort Totten, Turtle Mountain Band of Chippewa, Standing Rock Sioux, and the Sisseton-Wahpeton Sioux.

The United Tribes was organized and has been established since 1969, providing services principally for reservation-based people, both to adults and to children.

With regard to our own involvement in title IV, we have a number of programs including our own elementary school which

provides services from K through the eight grade and we do receive entitlement funds as well as participate in other aspects of title IV.

In addition, in February 1983, this past year, UTETC, the United Tribes was awarded a contract to operate a Northern Plains Resources and Evaluation Center II, as it is known. To provide training and technical assistance to title IV grantees in order that we can assure that title IV programs are viable and cost effective.

These are contracts awarded by the Indian Education Programs Office out of Federal administration. In this case, this particular center serves an eight-State area and serves alone some 210 grantees under part A, and approximately 24,000 Indian students from 24 different tribes.

I should note with respect to the Indian Education Act itself that the largest share of funding is devoted to part A, LEA entitlement grants, which serve Indian students in the public schools. A unique and important feature of the Indian Education Act is that it provides for the identification of educational needs and a determination of program activities at the local level.

Equally important is that the Indian parent committees are required to be involved in this process. Part A programs, as you know, provide a wide range of educational services that have been identified as a result of the Kennedy Report and previous to that even the Meriam Report.

Common components of title IV, part A programs are counseling, home school liaison services, cultural enrichment programs and so forth. During fiscal year 1982 part A programs served a total of 357,354 Indian students. A major study assessing the impact part A has had on these students has just been completed, but the final report, as we understand, is not yet available.

Programs under parts B and C, the Indian Education Act, provide additional services to Indian children and adults. Examples of the programs under part B include the development of culturally based curriculum programs and materials and the provision of comprehensive educational services where none are otherwise available.

Educational personnel development programs also under part B have enjoyed a high rate of success and have graduated large numbers of professional Indian educators, many of whom might never have been able to complete their educational studies without the availability of these programs.

Part C programs serving Indian adults have enabled large numbers of people to obtain their high school equivalency diplomas.

In fiscal year 1980, the five regional resource and evaluation centers, to which I have just referred, were established to provide training and technical assistance to title IV grantees. Types of assistance include writing measurable objectives, developing curriculum materials and providing parent committee training to the local grantees.

These services are relatively expensive, yet extremely valuable and comprehensive from the point of view of the grantees being served. Such services help ensure that title IV grantees are operating programs that are cost efficient and that meet the identified needs of Indians.

Of the concerns we have, we should note that not all of the problems have been solved in the process of the slightly more than a 10-year history of the Indian Education Act. For example, Indian students still achieve well below the national norm. In North Dakota, 1,972 Indian students in grades kindergarten through 12, out of a total Indian student population of 3,334, participated in remedial programs because they were below the norm for achievement. This means that 59 percent of the Indian students in that State alone have been assessed academically disabled or deficient.

Obviously, the schools are still lacking in their ability to meet the educational needs of the Indian students and there is a desperate need for supplemental programs to address these needs. The Indian Education Act was designed specifically for this purpose. However, as we understand, title IV funding is currently authorized only through 1985 and the President has recommended a fiscal year 1984 appropriation of only $1.2 million to close out this program. The authorization of the act is required if we are to expect to maintain the current status of Indian education and to produce any further gains.

Title IV programs are sometimes misunderstood, sometimes thought to duplicate other areas of Indian education. However, it is necessary to take an extra look at this and to realize that the services here are in fact necessary and are not duplicative. One of the programs which has been frequently cited as a duplication or causing duplication from title IV is the Johnson O'Malley program funded through the Bureau of Indian Affairs.

However, such duplication has been found to occur only in rare instances and for the most part simply, it is not true. In fact, a GAO study on this issue released in June 1981 entitled, "Local Coordination Prevents Duplication of Services at Federally Sponsored Indian Education Projects," in that study only one site was noted to have been cited in terms of duplication and only another four were cited for the need for coordination.

When considering the issue of duplication of services one must also keep in mind that the eligibility criteria of such programs as Johnson O'Malley are much more restrictive than those of title IV. Consequently, title IV monies provide services to a much greater number of Indian students than does Johnson O'Malley.

Of the 1,135 sites funded under title IV, part A during the time of this GAO study, less than one-half, that is 407, were identified as also receiving funds from Johnson O'Malley.

In addition to the need for reauthorization of the act, the funding level, as I have noted earlier, for title IV programs is also of great concern. During the last years, appropriations for title IV have steadily decreased. Elementary logic simply dictates that such cuts will affect the number and the quality of programs funded under the act.

For part A entitlement programs, the number of grants awarded appears to have stabilized at roughly 1,100 for the past few years. Due to decreasing appropriations, individual schools received fewer dollars and were forced to cut back, in some cases, even eliminate services. With respect to discretionary programs under parts A, B, and C, a reduced appropriation directly affects the number of projects that can be funded.

This is most apparent when one compares the funding patterns for part B projects during fiscal years 1976 and 1982. In 1976, 132 projects were awarded some approximately $15,400,000. Six years later in 1982, half that number of projects, that is 66, were funded for a total of approximately $11 million. The declining number of projects funded under the discretionary programs should not be construed as indicating a declining need for these programs.

During recent years the number of applications for discretionary programs has at times decreased, but this is largely attributable to the discouragement and frustration of the potential grantees who have faced the intense competition for available dollars and lost.

Many potential grantees have simply given up hope of ever being funded and quit applying. This does not mean that the need does not exist, Mr. Chairman.

The declining appropriations for Indian education affect not only the number of Indian people in programs who can be served, but Federal appropriations also affect the administration of the Indian Education Program Office located in the Department of Education. We understand the Federal reductions-in-force, that is, RIF's, in early 1982 resulted in a large turnover in IEP personnel. Consequently, IEP has since then been staffed by a collection of people who have little knowledge of Indian education in general, little familiarity with title IV programs in particular, and because they are, for the most part, non-Indian, little familiarity with the unique, special educational, and culturally related academic needs of the Indian people.

In addition, RIF's have reduced the size of the Indian education personnel staff available to administer Indian education programs and to monitor them.

I should also note that the position of the Director of the Indian Education Programs Office has been unfilled for nearly a year, and that an acting Director has been in this capacity since that time.

In summation, both the quality and quantity staff are felt to be totally inadequate at this time for meeting the needs of the Indian programs.

Mr. Chairman, I will move to the brief recommendations that we have in this regard. I have stated them in broader terms previous to this time. Because of the demonstrated need for as well as benefits provided by title IV programs, we strongly recommend that the Indian Education Act, that is, title IV of Public Law 92-318, as amended, be authorized at least through 1989, as proposed in H.R. 11, as introduced by the Honorable Representative Carl Perkins.

We understand that the House Subcommittee on Interior Appropriations, chaired by the Honorable Sidney Yates, has set a markup of $71,243,000 for fiscal year 1984. We strongly recommend that the appropriations for title IV Indian Education Act programs be set at a level, not less than this sum by the House.

Third, we recommend that the Congress undertake a serious review of the staffing situation at the Indian Education Program Office out of the U.S. Department of Education, and develop a plan to insure that an adequate number of qualified professional staff is available to administer and monitor this program.

Further plans should be developed, to promote the hiring of qualified Indian people to serve within the Indian education program staff.

We recommend that Congress investigate the reason that the directorship for the Indian education programs has remained unfilled for so long. We further recommend that the Director's position be filled as soon as possible with a qualified American Indian. Because of the value of the services provided by the resource and evaluation centers throughout the five regions that have been established, we recommend that the resource and evaluation centers be maintained as a integral part of the Indian Education Act.

We further recommend that the contracts for centers I and V—those are the regions—be awarded as quickly as possible so that these two centers can be operating to provide the services that are so desperately needed and lacking at this time in those two areas. Those are the Eastern and Southeastern areas of the country, Mr. Chairman.

Mr. Chairman, thank you so much for this time.

Mr. KILDEE. Thank you very much for your testimony. Your last three recommendations we will raise with Assistant Secretary Davenport who will be before this subcommittee on Thursday. So we will raise those questions that you have raised here very well today.

You did mention, as I mentioned earlier that the President proposes that for next year this program be phased out with a little over $1 million just for purposes of phasing the program out. You also mentioned, as I had, that the subcommittee chaired by Congressman Yates had recommended a modest increase in this program to $71.2 million and I think that that is encouraging, but we have to recognize that is only at this point one subcommittee of a bicameral Congress. So we have to make sure that that remains at that level throughout the legislative process because it's only a modest increase, but it still does not take us up to the level of funding in 1982. But it certainly is much better than the guillotine which the President would have applied to the program.

The administration, in its attempt to close this program down, has stated its position—and I hope I am fair to the administration when I try to reiterate their position—I would like to have you comment on the reasons they have proposed for closing the program down.

Basically, they say that if Indians are to be served, because of their special status as Indians, it should be only through the Bureau of Indian Affairs. That's their one point.

They also say, "If Title IV were eliminated, other programs such as chapter I and II, bilingual education, impact aid, and Johnson O'Malley could compensate for the loss of Title IV."

Another rather strange reason that they have given which is similar to the one that Richard Ling gave for cutting the funding for WIC program, the President says that, "Title IV has been so successful that it's no longer needed."

Could you respond to any of those arguments offered by the White House?

Yes, Mr. Ahrendt?

Mr. AHRENDT. Mr. Chairman, Johnson O'Malley for contract schools was cut out last year, December 23, 1982.

Mr. KILDEE. I would like to point out also that he mentions that bilingual education would help fill the gap even though that is only a very small part of the program and even there he proposes a 31-percent cut in bilingual education.

Any other comments? He indicates that the Johnson O'Malley funds serve not all Indians; they serve a certain portion of the Indian population where title IV is broader in its service area and broader for what is defined for the purpose of title IV as "Indian," is it not? We have a different definition of who qualifies for title IV than what would be the case among the tribes themselves. Any comment on that—the type of people served under Title IV?

Mr. AHRENDT. Mr. Chairman, the fact is that you have a broader area and you are running all the way from students through elderly people getting their GED's. I mean, this is a fact, that you're helping a larger segment of the population plus we know that the solutions to the problems, and the striving for self-sufficiency, has to be achieved with education or anything that helps to raise academics.

Mr. KILDEE. Miss Hall, there are some who would argue that title IV, part A and Johnson O'Malley are duplicative. How would you answer this in the context of the Putnam City schools?

Ms. HALL. Mr. Chairman, we do not receive Johnson O'Malley funds because our LEA believes that they need to be involved in the educational process of the Indian youth in our community and Johnson O'Malley does not require the LEA to be involved in the program.

Therefore, they feel that without their involvement, they would not have enough direction as to what happens with Johnson O'Malley funds. Therefore, we do not receive Johnson O'Malley money.

Mr. KILDEE. Anyone else care to comment on that question?

Mr. GIPP. Mr. Chairman?

Mr. KILDEE. Yes.

Mr. GIPP. I would just note, as I noted earlier in my testimony, that the Johnson O'Malley program is simply not duplicative, if that is the question. It has already been proven by a GAO study, as I understood, that has been ordered previously by the Congress and I have cited some of the very facts in that report.

It is available to the public and I would hope that the administration would look at that report.

Mr. KILDEE. We have that report and I concur with your analysis there.

Mr. Cuch, the administration would like to see Indians receive more educational services through State programs. That's one of their contentions. What are your thoughts on this? Do you think that the States would, if this program were cut, for example, be able to pull up the slack or be willing take up the slack?

Mr. CUCH. Definitely not. As I indicated in my testimony, the public school system was irresponsive to my needs when I was a student. I want to make the point that the Johnson O'Malley program only serves students from age 3 to 18. There's no way that we can fund our adult education program and we have never received funds from the State.

Our experience has been that if there is a set-aside, we are lucky if we get it. They set up as much bureaucracy as the Federal Government does sometimes and usually we are not even informed of any funds that are available at the State level.

Our experience has been that that won't work. I disagree with that position, the position of the administration, 100 percent there. In fact, that is why a lot of us are here today; to protect this relationship we have between our tribes and the Federal Government.

Mr. KILDEE. I think you raise a very good point on that last statement, I think that this Congress has to recognize that it has moral, legal, and treaty obligations with the Native Americans in this country and that there is a special obligation that we have to the American Indian, both because of moral, legal, and treaty obligations.

One of the things that I commend to people very often is that they should go down to our National Archives just down the street and read the treaties signed by Germany, Japan, Soviet Union, France, and the Indian tribes, and note that in those treaties that almost without exception the Federal Government committed itself to provide education. I think that the Federal Government has not done even a good job—has done a very poor job really in carrying out its part of those treaties.

There was supposed to have been a quid pro quo in those treaties. Whether willingly or unwillingly the Indian tribes, the Indian nations gave up huge tracts of land, gave up, unfortunately in many instances, a way of life, with one thing promised in return, almost universally in all of those treaties, education.

I think it's sinful the way the Federal Government withheld what it promised in those treaties and this Congress is part of that Federal Government. You know, the treaty was not with the BIA or just with the executive branch, the treat treaty was with the entire Federal Government and the Congress is part of that Federal Government. So the unique relationship between the Indian nations and the Indian tribes and the Indian people in this country is with the total Federal Government, including this Congress.

I have always had in my 7 years in Congress one wish and one hope, that we approach more closely adherence to those treaties and those promises and those commitments that we made to the Indians of this country. [Applause.]

Mr. KILDEE. I think it's a deep moral, legal, and treaty obligation that we have.

Mr. Nielson?

Mr. NIELSON. Thank you. I would like to ask the panel how they feel about where the title IV should be administered. Should it be under the Department of Education or should it be under the Bureau of Indian Affairs? The administration has a recommendation there. How do you feel about that? Should it be under the Department of Education or should it be under BIA—assuming we continue the program and I have every reason to believe we will, where should it be administered?

[No response.]

Mr. NIELSON. Do you have any preference?

Mr. CUCH. I think part of that is answered by the legislation itself. If we are placed under the Department of the Interior, we

would have a conflict with the definition and eligibility of services. The Bureau serves people who are one-quarter or more Indian blood as recognized by the Secretary of the Interior. Title IV serves second generation Indian people. I think legally that's pretty much answered with regard to that definition.

It wouldn't be possible to place it under the Bureau. I have no problems with the Department of Education. I do recommend that the support staff, the administrative personnel, be in place in order to get those services out as quickly as possible—be reinstated.

Mr. NIELSON. Do any of you others have any comments?

Mr. Gipp?

Mr. GIPP. Regarding that question, there are a number of other questions that have arisen with respect to the Department of the Interior's Bureau of Indian Affairs. This is because the Assistant Secretary, at least as I have been hearing him—and I rather hope it's incorrectly—but I have been hearing the same statement from him for nearly 2 years. One of the questions that Assistant Secretary Smith of the Department of the Interior has said is that the Bureau of Indian Affairs does not have a trust obligation in the area of education or that it is very questionable, to say the least from his point of view.

The problem we have with respect to title IV is that if title IV were moved over there, we don't have any assurance as to whether or how the Department would administer title IV. What we are more concerned with is how the Bureau of Indian Affairs is handling and administering and providing the commitment in education, just within its own department.

So we really have two concerns. Ultimately, the question is, What is the commitment of the Reagan administration in the area of education—Indian education?

Mr. NIELSON. I think that's not the question. The question is, What is President Reagan's policy and commitment on Indian education?

Mr. GIPP. I think it should remain where it is until we have a clarification as to how the Department of the Interior and the Bureau of Indian Affairs will handle or continue to handle the future of tribal and Indian education.

Mr. NIELSON. Do any of you others have any comments on that.

Mr. AHRENDT. Mr. Nielson, I would like to see it under the Department of Education, sir.

Ms. HALL. I agree with that.

Mr. NIELSON. Apparently, there is no disagreement really in that regard.

Now Mr. Cuch, you indicated that you would like to have it in BIA if the things were in place properly or would you prefer to have it in the Department of Education?

Mr. CUCH. No.

Mr. NIELSON. If you had your druthers, which would you prefer?

Mr. CUCH. I would like it to remain under the Department of Education.

I want to make the point that, to follow up on what Dave said, the Department of the Interior and the Assistant Secretary, in particular, has made it very clear that he wants to get out of the business of education. We disagree with him and we have let him know

that, and at the same time, if such a program as title IV were to be placed under the Department of the Interior with that kind of attitude, we are jeopardizing our program from the start.

Mr. NIELSON. OK. One of the important aspects of the Indian Education Act is the requirement that the parents be involved in the direction of the children's education. Is this a reasonable requirement, and if so, has it been effective?

Mr. Cuch?

Mr. CUCH. It's a very reasonable attempt and I think it has been very effective. It's like most educational programs. You are not going to demonstrate results in 1 year or even 3 years. You are going to see those results 10 to 15 years down the road and I provided some evidence to that effect in my testimony. I definitely believe that soon we are going to have a representative on one of the school boards back home.

Mr. NIELSON. Anyone else have a comment on that? Mr. Gipp? Mr. Ahrendt?

Mr. AHRENDT. It's not only a necessity, but that is where your results come from is having the Indian people involved.

Mr. NIELSON. One other question. BIA funds are supposed to be for educationally related services. What proportion of the funds are used for basic academic skills and what proportion are used for counseling and remedial- type programs?

Mr. CUCH. In our project, one-third for basic skills, one-third for counseling, one-third for attendance counseling and cultural activities.

Mr. NIELSON. Could you repeat that again, sir?

Mr. CUCH. One-third for basic academic skills, one-third for counseling, and one-third for attendance and cultural activities.

Mr. NIELSON. OK. Thank you. Anyone else?

[No response.]

Mr. NIELSON. I appreciate the remarks of the chairman today on the necessity to support Indian education. For the chairman's benefit, we do have, in my district, three Indian tribes and two reservations. It's a very important segment of my district and Mr. Forrest Cuch is, of course, the spokesman for the largest tribe in my State. The Ute Indian Tribe is the largest.

I believe you are larger than Navajo, are you not, in Utah?

Mr. CUCH. I think they are a couple Indians more. Just a few.

Mr. NIELSON. Well, there are some Ute Indians in San Juan County. Are you counting them?

Mr. CUCH. No, I didn't count them. If you count them, maybe we are over.

Mr. NIELSON. Anyway, the Utes, the Navajos, and the Paiute Indians, and, of course, we have some others as well. I do think that the statement made was a little prejudicial however. I think that the administration is interested in its responsibility. I do believe that they primarily want to integrate the Indians into the society more. I believe the attempt at the Union High School in Roosevelt is an attempt to integrate the Indians in with other students and many of them are doing very successful there.

In San Juan County they are also in the Monticello High School and in the Blanding High School doing quite well and many of them are having much success.

The administration does, however, have an overall responsibility for controlling spending and they do serve as a counterweight to what otherwise would be a runaway Congress. We have seen in the Congress so far this year at least in the committees on which I serve, increases of 30 to 40 percent recommended, not merely resumption of the trends we had prior to 1980, but a return to what those would have been had we not had the reductions we had in the last 2 years.

So we are having 30- to 40-percent increases, particularly in the health areas. I think with this counterbalance that we have and the tendency Congress has to spend and increase the spending, we come up with an appropriate balance. I would commend what has been done in the Interior Committee, Congressman Yates' $71 million, and I tell you that I will support a figure in that range. I would like to see the program continue and I would like to see also a continuation of the very successful program in the Richfield area which has a dormitory, which has students from Arizona, New Mexico, and Utah and they serve in the local schools there and have done it very successfully.

So that's where I am coming from and I want you to know that. I appreciate your attendance here today.

Mr. KILDEE. Thank you, Mr. Nielson. I do appreciate your support on this. I would like to say, however, that my statement was not really prejudicial inasmuch as I have served under three Presidents of the United States in my tenure here in Congress and none of those Presidents have done justice to the American Indian.

I have to go over to get one of my own bills out of committee. Mr. Ackerman is on his way to take over the Chair. I will be back in just a few minutes just as soon as I get my own bill out of committee.

So, if we could perhaps at this point take a brief recess. I would like to thank the panel for their excellent testimony this morning. You are involved in a cause of justice. One great person said in 1960 that "If one is to be a seeker after justice, he has to seek one's own justice." I think that's very important. Thank you very much.

Mr. CUCH. Thank you, Mr. Chairman.

Mr. AHRENDT. Thank you.

Mr. GIPP. Thank you very much.

[Brief recess.]

Mr. ACKERMAN. I would like to call the second panel. Ms. Allene Cottier and Mr. Jeffrey Benay. I would like to announce that Dr. Helen Scheirbeck, who was supposed to be testifying here today, will not be here and she respectfully expressed her regrets. She had a last minute problem in scheduling but her statement will be received for the record.

[NOTE: Never submitted.]

Jim Thornton also will not be here because he missed his flight and his statement will also be placed in the record.

[The prepared statement of Jim Thornton follows:]

PREPARED STATEMENT OF JIM THORNTON, BOARD MEMBER, OREGON INDIAN EDUCATION ASSOCIATION, COOS BAY, OREG.

Good morning, Mr. Chairman and members of the Committee. My name is Jim Thornton. I am Northern Cheyenne, and I live on the south coast of Oregon in Coos

Bay. I am a founding member of the Oregon Indian Education Association (OIEA), have served as past Vice-President of the Association, and currently represent Coos County as a member of the Board of Directors. Since January of 1976 I have been Coos County Indian Education Coordinator on the south coast of Oregon and have worked closely with eleven Title IV, Part A, Indian Education programs within the region. In addition, through our Association, and in my position that has been funded by a variety of sources (including Title IV, Part B, of the Indian Education Act), I have worked and shared with other Indian educators and school personnel throughout the state of Oregon and the Northwest. I have also served as a grant field reader for Title IV, Part A, proposals in 1978 and so I am familiar with other programs nationally.

The purpose of the Oregon Indian Education Association is to promote and provide better educational services to Indians in the state of Oregon. The Association directs Indian educational information to schools, Indian communities, Indian organizations, and individuals. In additions, the organization provides input for state and Federal legislation affecting the education of Indian people.

The Indian Education Act of 1972, and its subsequent reauthorization, have given Indian parents the opportunity to reaffirm a traditional involvement in the education of Indian children. The Indian parents' role in developing supplemental programs in local school districts to best meet the needs of Indian children has led to a gratifying level of success. Parent committees, working with local school districts and Indian controlled schools, have helped develop a new working relationship between schools and Indian people where before the interaction has been minimal. This interaction of parents with schools, and (importantly) schools interacting with Indian parents has increased the effectiveness of Indian Education programs on a local level. Each has become more aware of the others individual needs. Without supplemental Title IV funds for Indian Education Act programs, that dialogue and interaction would decrease substantially and Indian children would suffer.

Title IV of the Indian Education Act of 1972 was initially develped to involve Indian parents in schools as a way to break the cycle of poverty and school nonattendance documented at that time. It has been extremely successful in this regard. Involvement of local Indian community is *required* under Title IV in the development of Indian Education programs. The local Indian community is aware of the best methods in involving Indian parents and students in both the required needs assessment and program development to meet local needs of Indian children. Open public hearings and open parent committee meetings are a continuing part of Indian Education programs and provide a necessary adjunct to the local school district. Any efforts to take away from the people most knowledgeable would lead to ineffectual programs. In turn, as any administratively imposed paperwork increases, local school district enthusiasm would decrease. Thus far we have maintained within Indian Education a balance between the needs of administrative compliance with the Act and local abilities of grantees to provide necessary documentation.

Local documentation does not always fall within simple classifications. Although Indian students have shown decreasing school drop-out levels and increasing interest through actual student participation, there are other positive results of the program that are more difficult to document. Since funding levels have remained on a conservative level, Indian para-professionals and parents have made dedicated efforts to help Indian children at minimal costs. A positive correlative affect on Indian children is in the resulting active Indian role modeling. Indian children can see that Indian adults are positive, successful and admired by school peers.

In addition to Title IV, Part A, entitlement grants based upon the number of eligible Indian students within schools, other parts of Title IV offer additional benefits far greater than their Federal costs. One Oregon Indian educator has stated that with the increased number of Indian professionals and para-professionals within the last ten years of Title IV, greater progress has been made in Indian Education than in the preceeding five hundred years! Even with the recent drop in funding levels, components of Title IV have provided extremely important help to Indian students in higher education. 161 Indian students in higher education were reported in the most current NACIE Annual Report. These future professionals will join other active Indian professionals that have been made possible because of Title IV, Part B, Fellowship grants. Unfortunately there are many other Indian students who were not able to continue due to the limited funds available for this extremely competitive grant. Other Part B competitive grants have included planning, pilot, demonstration, and education services for Indian children. Part C competitive grants include adult basic education for Indian adults.

Title IV competitive grants under Parts B and C often place applicants under severe restraints due to the recent drop in funding appropriations. In the same

NACIE Annual Report, there were 1,114 successful Title IV, Part A, entitlement grants (157 in the Northwest) and 32 awards to Indian controlled schools; but nationally for Part B competitive grants there were only 66, and for Part C competitive grants there were a total of 49 nationally. Important reserch, original curriculum materials, and resource development that should be pursued, cannot be because of the limitations of low funding levels and the intense competitive grant award process. These services are important because they serve to incorporate Indian children within the educational hierarchy. As an experienced, previously funded Title IV, Part B, coordinator I know that the hight level of expertise and meaningful work that should be awarded to provide additional positive affect on Indian children is not being developed in many cases since competition is too intense for too limited funding resources.

During the last three years, funding for Title IV has decreased at an alarming rate. In order to make up this decrease a 21 percent increase would be required to reach the original funding level three years ago (without taking into consideration inflation). Although it is not projected how the most current drop of funding of 13.6 percent will affect Title IV programs, continued active involvement of Indian parents and communities has provided extremely cost effective results. In a recent review of Title IV, Part A, entitlement programs conducted by the Oregon Indian Education Association, respondents representing 3,227 certified Indian students receiving program services indicated that all programs had been operating their Indian Education program for five or more years. Tutoring was the prime component in most programs, followed by Indian resource speakers, culture classes, counseling, drop-out intervention, field trips, youth clubs and summer culture camps. Basic skill instruction made up the highest percentage of program services (48 percent, followed by Indian culture as related to academic skills (37 percent) and other academic areas (15 percent). Approximately 56 percent of eligible Indian students were identified as needing academic assistance. Of those responding only one believed that the school district might pick up program components (tutoring) if funding were no longer available. Others felt that Indian children would not be served at all, although school district interaction with the program was rated overall as "good".

The Reagan administration recently looked to eliminate Title IV Indian Education on the premise that other programs would take over in providing required services to Indian students. Schools hesitate to provide special programs to special groups because they must serve all students equally. Historically, other programs have not attended to specialized needs of Inidian children. It does not happen. In addition to budget constraints and other factors, the major reason that other programs would not help is that through Federal regulations Title IV-Indian Education services can only be offered after all other supplemental funding resources have been exhausted. Without Title IV-Indian Education these services would simply not be available. A drop in funding decreases the availability of direct services (including tutoring programs) that reach Indian students in a most direct manner. If other tutoring services are offered through a local school district they are already being used to service Indian children in need of that service. Additionally, if Indian children require tutorial services in areas not available through the local school district, the programs must first develop a needs assessment and priority rating before expending funding resources with the consent of the parent committee and the Indian Education Programs office (ED).

Title IV-Indian Education serves approximately 5,000 certified Indian students within the State of Oregon in 29 local Title IV, Part A, entitlement programs. Additionally there is one Title IV, Part A, entitlement programs. Additionally there is one Title IV, Part B, project and 4 Johnson-O'Malley tribally-based programs that serve federally recognized Indian students living on or near the reservation service areas. Any decreases in Title IV appropriations decreases the total number of special educational services available to Indian students in Oregon. Most Indian students would be left without a meaningful alternative to any service loss. Title IV and Johnson-O'Mally Indian Education programs do not have heavy duplications of services, as indicated by the Government Accounting Office (GAO). In Oregon, where both sources are available, there are formal coordinating functions between the two programs (Between the Department's of Education and Interior there is curently no such coordinating structure developed). Any decreases in Johnson-O'Malley funding appropriations decreases the total number of special educational services available to other Indian students in Oregon. There is no alternative available to simply shift Indian children around to make sure that they all receive needed educational services.

A recent article in The Sunday Oregonian newspaper (June 12, 1983) points out the failure of shifting program students out from Federal Title I funds in hopes that Chapter I (of the 1981 Education Consolidation and Improvement Act) would trickle back through block grants to meet the needs of children in that program. According to the Article, "slow learners are wrongfully being put into special education classes in the Portland School District because the help they need is not available in the regular classroom". 200 aide positions were eliminated from the district with a possible 40 additional aides scheduled to be laid off in the fall as a result of the reduction in Chapter I funds, according to the article. We are concerned that a similar undertaking to switch direct grants to a block grant concept would damage any future Title-Indian Education services for Indian children.

Local control is extremely important to Title IV programs. It has made possible significant increases in parental participation and involvement in our children's academic and personal growth. The purpose of Pub. Law 93-638 is "to provide maximum Indian participation in the Government and education of the Indian people" as well as "to support the right of Indian citizens to control their own educational activities". In the Oregon Indian Education Association study, Indian parent involvement in the school system was rated as the major program strength. Higher than average parental involvement in Title IV-Indian Education programs over other educational programs was shown. The alliance of programs within the regular school system, with its flexibility and local control, were other major strengths noted in the study. The ability to provide consistant supplementary services to Indian children as determined through Indian parents is extremely important. Program weaknesses noted were limited to low funding levels, and the program time spent for student verifications.

Two recent changes in the Indian Education Act require additional emphasis. One, multiple year grant awards of up to three years has been a great help in providing more time for programs to use in direct services without an exorbitant amount of time spent on reassessing the needs for such a program emphasis. When programs are awarded for a single year they require not only a community needs assessment of available resources with prioritizing, but a time consuming process that follows before a review of the existing program performance is initiated. Since regularly scheduled Indian Education parent committee meetings are held to review the success of the current program, the program time spent in formally reassessing needs and writing proposals every year is to some degree a duplication that could be better served providing direct services to Indian children. Since Title IV is designed so that ineffective program components can be changed if they prove to be counterproductive, three year grant awards do not tie programs into inflexible activities. Three year grant awards should be reinstated so that more direct services can be made available to Indian children without jeopardizing program compliance. Long term goals are difficult to achieve if funding is on a year by year basis; you have to have very short term goals on one year grants. The annual grant award process is counterproductive in planning for any planning continuity and service delivery continuity. Staff personnel also need some reasonable expectation of program longevity since it affects their employment future. For the 1983-84 funding cycle, three year funding proposals have been rejected for one year grants only.

Another favorable amendment was added that should remain. Regional Resource and Evaluation Centers were added to give greater accessability of local programs to the technical assistance and program sharing that is so necessary to provide optimum programs. No one should expect every program to "re-invent the wheel"! In 1978 at the Office of Indian Education (IEP) conference in San Diego, California, and Oregon caucus initially suggested regional centers to provide more regional services to local areas. The importance of such regional centers has proven to be effective, especially in light of the many changes in staffing which have occured within the Indian Education Programs office (ED) in recent years. Awards of Resource and Evaluation Center contracts to Indian organizations is an additional plus in light of the failure of the IEP offices to have Indian preference in hiring (that is required for program hirings through grant awards) Any plan to redirect funds for these Centers back into a block grant process would be detrimental to the effectiveness of providing direct services at great cost effectiveness. Oregon, Alaska, Montana and Idaho have formed Indian Education associations to develop state level sharing of programs without block grant funding. The state of Washington is now forming their own association. Within our Oregon Indian Education Association we prefer to continue receiving the services of a truly regional center while communicating with programs within the state through out Association, without a move toward a block grant system.

In conclusion, if Title IV-Indian Education is not extended Indians will be left to sink or swim in the educational system, and historically we have not learned to swim in that system.

Mr. ACKERMAN. We will just wait a moment for Ms. Cottier.

Mr. Benay, perhaps if you would identify yourself for the record and without objection your full statement will be included in the record.

[The prepared statement of Jeff Benay follows:]

PREPARED STATEMENT OF JEFF BENAY, DIRECTOR OF INDIAN EDUCATION, FRANKLIN NORTHWEST SUPERVISORY UNION, SWANTON, VT.

Title IV of Pub. L. 92-318 provides services for urban and rural off-reservation groups. For many Eastern Indians such as the Abenakis this is the only special educational funding available. I suggest that the needs of our communities demand the attention which only the federal government can provide. For despite rhetoric to the contrary, state and local support can in no way address such profound deficiencies. Unless we are willing to recognize these realities, equality of educational opportunities will forever be elusive.

Within the Abenaki community, an urgency has been felt among tribal leaders to provide educational support services to their people. The Abenaki Self-Help Association, Inc. (ASHAI) was incorporated as a charitable, benevolent, and democratic voluntary association with a purpose of serving all Native Americans in the State of Vermont, by improving their housing, economic, educational, social and cultural conditions.

In order to gain a clear understanding of community needs the ASHAI has undertaken various needs assessments and surveys. For educational purposes, three disparate groups have been examined: Pre-School, In-School, and Out-of-School adults (sixteen years and older).

Scores from Metropolitan achievement tests administered to entering first graders reveal that only one in four Abenaki children are first grade ready. In addition, the Abenaki first grade retention rate is 25 percent, significantly higher than that of the non-Indian population. Not surprising, academic performance as measured by tests administered districtwide in grades one through six, reveal the median percentile rank of Native Americans to be considerably lower than those scores of the non-Indian community. Table I indicates the low achievement of the Native American.

TABLE I

Area	Class median	Native American median
Grade 1 (total tested 229):		
Reading	52	41
Math	58	47
Grade 2 (total tested 213):		
Reading	56	46
Math	44	41
Grade 3 (total tested 197):		
Reading	54	52
Language	50	34
Math	44	45
Grade 4 (total tested 189):		
Reading	54	35
Language	54	34
Math	50	28
Grade 5 (total tested 176):		
Reading	46	16
Language	50	44
Math	42	36
Grade 6 (total tested 192):		
Reading	46	27
Language	48	29
Math	36	24

Therefore the difficulties first encountered in school are compounded as the Native American child proceeds through the system. It is no wonder we find high drop-out among the Indian population. At the Junior-Senior high school level the Abenakis account for 11.2 percent of the student body. The percentage of total drop-outs for the years available show a much greater percentage than the 11.2 percent would indicate. The following table gives the percentage of Abenaki rate in relation to the total drop-out rate for the school.

Table II

1973–74	43
1974–75	53
1975–76	59
1977–78	41
1978–79	32
1979–80	32
1980–81	28
1981–82	38

Thus it is an understatement to say that the Abenaki people are less educated than their fellow Vermonters. Only 34 percent of heads of household hold either a high schools or general equivalency diploma. Nearly 16 percent have left school between the ninth and twelfth grades while 50 Percent have left school before completing ninth grade.

All too often the undereducated are also the poor. 31.7 percent of the Abenaki households can be classified as low income according to HHS guidelines. An additional 37.3 percent can be classified as very low income. Another 10.8 percent cannot be grouped accurately due to lack of specificity about actual income. These occupy a range in income between low and very low.

The social price of education deprivation among the Abenakis of Northern Vermont is high, ranging from social-welfare costs to the inability to compete in the job market to obstacles to productive behavior. When the severity of educational need is coupled with the lack of appropriate services to accommodate the Native American population, the depth of need for Title IV becomes apparent.

If we agree that early education is essential for proper child development then a kindergarten experience is crucial in providing basis academic and socialization skills. Unfortunately, those towns with the heaviest Abenaki concentration of children have no provisions for any public pre-school. Local voter rejection for two consecutive years have left private kindergarten programs the only opportunity for Abenaki children. Due to the prohibitive costs, over 80 percent of Indian youngsters receive no pre-school experience.

For those who might argue that parents can offer suitable learning experiences for their pre-school youngsters, it must be remembered that a high percentage of parents lack the basic skills to aid their children. Even if an adult desires to improve his own education, the opportunities are limited. The State of Vermont provides adult education services yet clearly its staff is unable to provide services for all applicants to its programs. In Northwestern Vermont, 16 percent of the adult population 25 years old and over have never progressed beyond the eighth grade. The functional illiteracy rate is also exceedingly high and the state ABE Program simply does not have the manpower to combat the staggering numbers. The ASHAI has idintified over 250 members in need of adult education opportunities and very few of these people have received services through the state.

Once we observe the lack of skill development in the pre-school and adult populations, it can be assumed that entry into public school often represents an Indian child's only exposure to basic academic skills. Remediation is essential and Chapter I services alone cannot begin to meet the overwhelming needs. In addition to academic problems, the Indian child finds himself in a environment which displays total disregard for his cultural heritage. Social Studies curricula offer no lesson plans which include the Native American experience, an omission particularly glaring in communities that possess an abundance of Indian tradition. School libraries contain no Indian-related reference materials and youngsters are forced to seek out alternative methods to learn more about their ethnicity. The educational experience quickly descends into an emotional nightmare for Indian children and feelings of

inadequacy emerge. Unfortunately too, Indian parents can do little to improve their children's negative outlooks for they are also the products of scarred educational memories. Alienation experienced by the adult is transferred to the child and school takes on a totally ominous connotation. Because Indian participation is never sought on the part of school administrators, the feelings of frustration, humiliation, and impotency never have a chance to diminish. Inter-generational education failure emerges and with it the accpompanying socio-economic difficulties.

The extent of need and lack of available services indicate that some intervention is urgently warranted. It is my contention that Title IV programs offer a viable system of comprehensive educational support services to Indian communities. Within the Title IV umbrella, limited discretionary funds are available for preschool and adult education programs. Entitlement grants under Title IV, Part A are available to local educational agencies for dissemination at the public school level. In Vermont two local school districts have entered into a consortium, thereby enabling some 365 Indian children to be eligible for services.

Our program is in its fourth year of operation and we are concerned with three primary areas: academic improvement, cultural awareness, and increased parent participation. Our goals include increasing the achievement level of Abenaki students, grades 1-6; reducing the drop-out rate of Indian high school students; and providing an after school cultural activities program to all children. Some twenty-five part-time tutors and counselors work in concert with school teachers and guidance counselors in developing individualized education plans that are implemented during in-school and after-school hours. Because much instruction takes place in the home, tutors establish linkages with parents that encourage the latter to express their concerns in a supportive environment. The inclusion of parent involvement in further demonstrated by the Parent Advisory Committee (PAC). Perhaps Title IV's greatest strength is its insistence on active parent participation. This legislation is sensitive to the fundamental need in Indian education for parents to be recognized as integral factors in the lives of their children. When parents are given a channel of communication to voice their concerns and they are included in a decision-making apparatus, their perception of the system may change. This crucial attitudinal improvement is not lost on the child and new inroads can be made.

The Franklin Northwest Supervisory Union's Title IV PAC is involved with most aspects of our program. Comprised of six parents, two students, as a local elementary school teacher, the PAC participates in grant preparation, hiring, budgeting and monitoring program goals. Before grant submission each year, the PAC solicits community feedback by helping to design and to distribute a parent survey. This strategy assures priorities to be reflective of the community and grass roots support is maintained. That this program has made such gains as reducing the Indian drop-out rate to 22 percent and developing Abenaki curriculum to be utilized districtwide is but a reflection of the Parent Advisory Committee's effectiveness.

Title IV legislation is aimed at providing increased educational opportunities for the Indian population. Concomitantly, it supports regulations which stress a participatory democratic process, as embodied by the parent advisory committee. That a federal program can orchestrate this difficult balance is certainly strong affirmation of a role the federal government can successfully play.

STATEMENT OF JEFFREY BENAY, DIRECTOR OF INDIAN EDUCATION, FRANKLIN NORTHWEST SUPERVISORY UNION, SWANTON, VT.

Mr. BENAY. My name if Jeff Benay, I am the director of indian education for the Franklin Northwest Supervisory Union in Swanton, Vt. We service the Abenaki population, a group of 1,500 native Americans in northern Vermont. We are a nonfederally recognized off-reservation group. This is a title IV-part A project which we run.

The proposed Presidential cutback in title IV Indian education services, is a rude reminder that the educational self-determination of native Americans, is wholly dependent on the capricious nature of politics. Due to prevailing ideology, Federal responsibility for Indian education is willingly abrogated and the painful chapters of

history are ignored. Title IV provides services for urban and rural off-reservation groups.

For many Eastern Indians such as the Abenakis, a nonfederally recognized tribe, this is the only special Indian educational funding available. I suggest that the needs of our communities demand the attention which only the Federal Government can provide. For, despite rhetoric to the contrary, State and local support can, in no way, address such profound deficiencies.

Unless we are willing to recognize these realities, equality of educational opportunities will forever be illusive. Within the Abenaki community, an urgency has been felt among tribal leaders to provide educational support services to their people.

The Abenaki Self-Help Association was incorporated as a charitable, benevolent, democratic and voluntary association with the purpose of serving all native Americans in the State of Vermont, by improving their housing, economic, educational, social, and cultural conditions.

In order to gain a clear understanding of community needs, the Self-Help Association has undertaken various needs assessments and surveys. For educational purposes, three disparate groups have been examined—preschool, in-school and out-of-school adults, 16 years and older.

Scores from metropolitan achievement tests administered to entering first graders revealed that only one in four Abenaki children are first-grade ready. In addition, the Abenaki first grade retention rate is 25 percent, significantly higher than that of the non-Indian population. Not surprisingly, academic performance as measured by tests administered district-wide in grades one through six revealed the median percentile rank of native Americans to be considerably lower than those scores of the non-Indian community.

Therefore, the difficulties first encountered in school are compounded as the native American child proceeds through the system. It is no wonder we find high dropout among the Indian population. At the junior/senior high school level, Abenakis account for 11.2 percent of the student body. The percentage of total dropouts for the years available show a percentage much greater than the 11.2 percent would indicate, with the 1975–76 school year producing the high figure of a 59 percent Abenaki dropout rate.

Thus, it is an understatement to say that the Abenaki people are less educated than their fellow Vermonters. Only 34 percent of heads of household hold either a high school or general equivalency diploma. Nearly 16 percent have left school between the 9th and 12th grades, while 50 percent have left school before completing the 9th grade.

All too often, the undereducated are also the poor; 31.7 percent of the Abenaki households can be classified as low-income according to HHS guidelines. An additional 37.3 percent can be classified as very low income. Another 10.8 percent cannot be grouped accurately due to lack of specificity about actual incomes. These occupy a range in income between low and very low.

The social price of education deprivation among the Abenakis of northern Vermont is high, ranging from social welfare costs to the

inability to compete in the job market to obstacles to productive behavior. When the severity of educational need is coupled with the lack of appropriate services to accommodate the native American population, the depth of need for title IV becomes apparent.

If we agree that early education is essential for proper child development, then a kindergarten experience is crucial in providing basic academic and socialization skills. Unfortunately, those towns with the heaviest Abenaki concentration of children, have no provisions for any public preschools. Local voter rejection for 2 consecutive years have left private kindergarten programs the only opportunity for Abenaki children. Due to the prohibitive costs, over 80 percent of Indian children receive no preschool experience.

For those who might argue that parents can offer suitable learning experiences for their preschool youngsters, it must be remembered that a high percentage of parents lack the basic skills to aid their children. Even if an adult desires to improve his own education, the opportunities are limited.

The State of Vermont provides adult education services yet, clearly, it's staff is unable to provide services for all applicants to its programs. In northwestern Vermont 16 percent of the adult population, 25 years old and over, have never progressed beyond the eighth grade. The functional illiteracy rate is also exceedingly high. The State ABE program simply does not have the manpower to combat the staggering numbers.

The Abenaki Self-Help Association has identified over 250 members in need of adult education opportunities, and very few of these people have received services through the State.

Once we observe the lack of skill development in the preschool and adult populations, it can be assumed that entry into public school often represents an Indian child's only exposure to basic academic skills. Remediation is essential and chapter I services alone cannot begin to meet the overwhelming needs.

In addition to academic problems, the Indian child finds himself in an environment which displays total disregard for his cultural heritage. Social studies curricula offer no lesson plans which include the native American experience, an omission particularly glaring in communities that possess an abundance of Indian tradition.

School libraries contain no Indian-related reference materials and youngsters are forced to seek out alternative methods to learn more about their ethnicity.

The educational experience quickly descends into an emotional nightmare for Indian children and feelings of inadequacy emerge. Unfortunately, too, Indian parents can do little to improve their children's negative outlook for they are also the products of scarred educational memories. Alienation experienced by the adult is transferred to the child and school takes on a totally ominous connotation.

Because Indian participation is never sought on the part of school administrators, the feelings of frustration, humiliation and impotency never have a chance to diminish. Intergenerational education failure emerges and with it, the accompanying socioeconomic difficulties.

The extent of need and lack of available services indicates that some intervention is urgently warranted. It is my contention that title IV programs offer a valuable system of comprehensive educational support services to Indian communities.

Within the title IV umbrella, limited discretionary funds are available for preschool, and adult education programs. Entitlement grants under part A are available to location educational agencies for dissemination at the public school level.

In Vermont, two local school districts have entered into a consortium, thereby enabling some 365 Indian children to be eligible for services. Our program is in its fourth year of operation and we are concerned with three primary areas—academic improvement, cultural awareness, and increased parent participation.

Our goals include increasing the achievement level of Abenaki students, grades one to six, reducing the dropout rate of Indian high school students and providing an after-school cultural activities program to all children. Some 25 part-time tutors and counselors work in concert with schoolteachers and guidance counselors in developing individualized education plans that are implemented during in-school and after-school hours. Because much of this instruction takes place in the home, tutors establish linkages with parents that encourage the latter to express their concerns in a supportive environment. The inclusion of parent involvement is further demonstrated by the parent advisory committee.

Perhaps title IV's greatest strength is its insistence on active parent participation. This legislation is sensitive to the fundamental need in Indian education for parents to be recognized as integral factors in the lives of their children. When parents are given a channel of communication to voice their concerns and they are included in a decisionmaking apparatus, their perception of the system may change. This crucial attitudinal improvement is not lost on the child and new inroads can be made.

The Franklin Northwest Supervisory Union's Title IV Parent Advisory Committee is involved with most aspects of our program. Comprised of six parents, two students, and a local elementary schoolteacher, the PAC participates in grant preparation, hiring, budgeting and monitoring program goals.

Before grant submission each year, the Parent Advisory Committee solicits community feedback by helping to design and to distribute a parent survey. This strategy assures priorities to be reflective of the community and grassroots support is maintained.

That this program has made such gains as reducing the Indian drop-out rate to 22 percent and developing Abenaki curriculum to be utilized district-wide is but a reflection of the Parent Advisory Committee's effectiveness.

Title IV legislation is aimed at providing increased educational opportunities to the Indian population. Concomitantly, it supports regulations which stress a participatory, democratic process as embodied by the Parent Advisory Committee. That a Federal program can orchestrate this difficult balance is certainly strong affirmation of a role the Federal Government can successfully play.

Thank you.

Mr. KILDEE. Thank you very much, Mr. Benay.

Our next witness is Ms. Allene Cottier, executive director, Community Action for the Urbanized American Indian, Inc., San Francisco, Calif.

[The prepared statement of Allene Cottier follows:]

PREPARED STATEMENT OF ALLENE "CHOCKIE" COTTIER, EXECUTIVE DIRECTOR, THE AMERICAN INDIAN CENTER

Mr. Perkins and honorable members of the Subcommittee, I want to address two issues that are critical for this nation's American Indian population: The serious, abiding need for Indian adult education; and the need for equitable service to Indian communities so that goals of development and lessened dependence are achieved.

In the course of discussing these issues, I think you will arrive at an entirely new and troublesome set of conclusions—because by job here is to give you new information and a new perspective on Indian people, our continuing crisis of relocation, and our determination to live out in cities or reservations the old treaty promise of self-determined lives. Without appropriate and geographically equitable Indian adult education, these crises and problems cannot be solved—and this promise cannot be fulfilled. Without more and better Indian adult education, you will see more unemployment, worse health problems, less growth, and a greater burden for government to bear. That is something neither of us want.

Let me begin with our own Indian community in San Francisco, since it would seem to hold out such strong promise for socioeconomic growth for Indian people who first had little in common except having been relocated off the reservation to a strange city. When our American Indian Center performed a local education needs assessment in 1980, our expectations about results were high, for these reasons:

Although few urban Indian communities overcame the chaos of relocation, in San Francisco a strong American Indian Council coalesced just 18 months after the first "relocation" trains reached San Francisco Bay in 1953.

The American Indian Council's constitution mandated a self-help struggle to get urban Indians off the federal dole.

Council and community elders continuously fought for their rights and needs, as the nation witnessed in our Alcatraz occupations of 1964 and 1969.

World-class universities in the Bay Area including UC Berkeley and Stanford deal in Indian studies, and recruit Indian students.

In fact, the results of this San Francisco Indian community assessment were abysmal.

Not a single Indian sat on an elected or appointed chair anywhere in San Francisco County in 1980.

At 1 percent of the population, Indians covered 10 percent of San Francisco's drunk arrests.

55 percent of Indian fathers were unskilled for work, or underskilled.

The tuberculosis rate for Indians was eight times the city norm.

Indians were hospitalized two and one-half times longer than others for the same illnesses, indicating generally poorer health.

Indian unemployment hit 34 percent, against the city's official 4.8 percent.

True, these are not the kinds of questions some adult educators and some legislators might ask, by inference, in measuring education needs. But, in our view, it is time we used need indices that not only show traditional things like grade-level improvement—but also measure the community impact of programs like adult education, Indian child welfare. It's a true test of program efficiency.

Our education needs assessment yielded other interesting statistics, correlations and the like. The American Indian Center's own client intake data, for example, showed a powerful and negative correlation between education and employment. One-third of these clients never finished high school and 38 percent were unemployed. (In fact, as you shall learn, the official Census figures show a worse reality.) Further, these Indians are undereducated and unemployed in a city that is simply devoid of labor-intensive, industrial work. Instead, San Francisco's typical entry-level job is "high tech" skilled/clerical—exactly the kind of job for which an early high-school dropout cannot hope to compete.

Our needs assessment yielded an equally strong, negative correlation between education and relocation. A blind sample of 250 of our clients showed an incredible 52 percent as recently "self-relocated" from home reservations to San Francisco. One-fourth of these clients brought at least three dependents with them to escape reservation poverty and plain, chronic lack of work.

Understanding the importance of the continued relocation problem is really at the heart of this testimony. Although this Presidential Administration has gone on record against the old federal policy of termination of tribes—and I'm sure you are familiar with the Relocation and Termination Acts of the early 1950's—Indians continue to leave our reservations because of the familiar old conditions created by the previous termination policy: no work, little hope for work, and too little of anything to sustain life.

To us, quantifying and analyzing relocation is of focal importance—because there is simply no other way to explain this incredible, recent crowding of the national Indian population into just one state: California. Of course, everyone knows that Indians live in South Dakota, in Arizona, in Oklahoma. But until the federal 1980 Census, no-one knew that 231,000 Indian people—85 percent of us not California tribal Indians—live in California. That's 21 percent more than Oklahoma, which was traditionally ranked first.

Mr. Perkins and subcommittee members, relocation is important to you because it defines a cultural problem with sharp education consequences. As late as 1974, 60 percent of San Francisco's Indian adults still spoke their tribal language at least half of the time, according to a local Indian Health Service study. Relocation guarantees a steady, continued in-migration to California of such "traditional" Indian people whose second language, English, was learned on a reservation most often in a very informal setting—almost never in the boarding schools.

Here is a graphic way of understanding the consequence of such a cultural gap: San Francisco County's largest adult education program, operated by a Community College District with considerable state and federal funds including then-CETA monies, enrolled no more than 12 Indian students in 1979, from an Indian adult community near 3,250. The next largest county program, operated by a CETA prime sponsor, drew just 6 Indian students that same year into all its adult programs combined (a 69 percent deviation from the sponsor's planned service level, and the worst disparity noted for any target group). Yet our American Indian Center's own small program for adult education drew two-thirds as many students in 1979 as the largest county adult programs taken together. It is as if only Indians will meet Indian needs.

Of course, it is true that Indians will perfer their own cultural and community-specific programs for adult education. But it is also true that the alternative sources of instruction make an utterly inadequate effort to recruit Indian students in proportion to our needs and numbers. An undereducated, unemployable and growing population can only be increasingly dependent on government for survival services: That is the bitter logic of such data collection and analysis, and it clearly shows the kinds of escalated "survival service" pressures that states like California, and the federal government, can expect in the immediate future if Indian adult education needs are not met programatically.

Now that we have talked about a statistical base for an intelligent discussion of Indian adult education needs, let me tell you that the real situation is far, far worse than we expected—even in San Francisco.

During the winter of 1981–82, our agency linked a local govenment planning service, state demographers and the Census Bureau with us to perform a "first ever" analysis of 1980 census figures on 750 separate Indian communities—small to large—in California. Here are four county compliations for San Francisco Bay Area counties, and comparable state-wide figures.

SAN FRANCISCO COUNTY

Of 2,304 Indian adults over 25 years, 53 percent are high school dropouts and 12 percent went no further than sixth grade.

Of 548 families, 32 percent had annual incomes below $10,000 and fell short of poverty level benchmarks, while 55 percent earned less than $15,000 a year.

Of Indian adults over 16 years, 52 percent were not working with the mean unemployed period at 3½ months in 1979.

ALAMEDA

Of 4,230 Indian adults over 25 years, 32 percent are high school dropouts.

Of 1,924 families, 23 percent had annual incomes below $10,000, while 41 percent earned less than $15,000 per year.

Of Indian adults over 16, 42 percent were not working.

SAN MATEO

Of 1,323 Indian adults over 25 years, 33 percent are high school dropouts.
Of 539 families, 25 percent had annual incomes below $10,000, while 35 percent earned less than $15,000 per year.
Of Indian adults over 16, 34 percent were not working.

CONTRA COSTA

Of 2,589 Indian adults over 25 years, 28 percent are high school dropouts.
Of 1,169 families, 23 percent had annual incomes below $10,000, while 32 percent fell below $15,000.
Of Indian adults over 16, 39 percent were not working.

STATE OF CALIFORNIA (FOR COMPARISON)

Of 119,549 Indian adults over 25, 34 percent are high school dropouts.
Of 55,633 families, 28 percent are below the $10,000 annual income mark and 44 percent are below the $15,000 figure.
Of Indian adults over 16, 45 percent were not working.

As you see, these figures profile a much deeper, more serious problem than our own agency needs assessment revealed—and we, one might have thought, were using data on clients already near the bottom of economic and education indices.

But even this Census data is a very probable understatement of Indian adult education need, because of Census undercounts in "most in need" urban areas. San Francisco is not the only California city in which careful study of intake and service figures from different agencies indicate a real urban Indian population as much as twice the Census figure. County government planners in both Los Angeles and San Diego have often simply doubled the Census figure for their own program planning purposes. In 1980, the Bureau of Indian Affairs agreed to use an adjusted California figure for Indian population, and in 1982 our state's largest anti-poverty agency followed suit. Right now, our agency is working with the federal Dept. of Health and Human Services to help it determine whether and how it may revise its own national Census analysis of American Indian needs, because of this serious distortion problem.

Let me make one important observation here. Using just the two main data bases I mentioned before—our agency's own 1980 needs assessment, and the 1980 Census—it seems clear that even in a city with a strong resettled Indian community, the crisis of undereducation and unemployment is getting worse. Since it is relocation from the reservations that fuels this problem by bringing a steady flow of Indian immigrants with especially low basic skills, you can see that Indian adult education solutions in the future are going to have to be effective both on the reservations and in the cities where Indian people resettle. Office of Indian Education Title IV "C" adult education services must follow the people.

At present, this very small and underfunded federal program does not in fact follow Indian people in their search for stable employment and Indian communities in which families can raise their children. Mr. Perkins and subcommittee members, you should know that the true situation is virtually the opposite of what our need studies recommend. Although one in every six American Indians alive in this nation today are California residents, there are no more than two adult education programs in the entire state funded by the Office of Indian Education, one of which will close this month.

I am not suggesting that the Office of Indian Education deprive non-California tribes and community organizations of their funds: it is simply that the pie is far, far too small to meet the needs of the nation's most unemployed and disadvantaged population.

Californians are not the only analysts to have reached these conclusions. As you may know, there has only been one professional and nation-wide study of Indian adult education. That is the 1981 study on "The Status and Education Attainment and Performance of Adult American Indians and Alaska Natives", funded by the Office of Indian Education itself and published by the National Indian Management Service of Philadelphia, Mississippi, home of one of the best Indian adult education programs in the country, that of the Choctaw tribe.

Although the study was not designed to compare "Western Indians" with "Eastern Indians", data analysts could not help but note extraordinary differences in literacy levels, English fluency, employment and housing conditions and other measures.

As analysts Peter Hackbert and James Curry wrote in summary:

"The results of the interview survey were dismaying. Interview subjects fell far below national norms in all categories for which national figures are available. Western Indians consistently scored lower than Eastern Indians . . . The low achievement scores were accompanied by high levels of unemployment, poor housing and bad health . . . Eastern Indians scored better than Western Indians in all eleven Adult Performance Level categories . . . A great majority feel that they need more education and would like to have an education different from the one they received (78.62 percent of Eastern Indians and 67.26 percent of Western Indians in the national sample) . . . Western Indians do so much more poorly than Eastern Indians with comparable amounts of education that it is likely there is something seriously wrong with the educational facilities to which they have access."

Again, let me say clearly that this Indian adult education need is national; it is just that inattention to continued, massive Indian resettlement has shifted the focus of underservice geographically. The only remedy is more and better programs: surely, there could be no logic in defunding an essential, useful Indian adult education program in North Carolina to create another new program in California.

In summary, Mr. Perkins and subcommittee members, needs assessments or studies I have cited above define three closely-related problems of significant magnitude: Broad absence of basic English literacy in urban Indian communities as well as tribal populations; deep unemployment in the same communities, which require improved basic skills to take advantage of occupational training sensitive to local labor market needs; general absence in our target area of GED/ABE programs culturally-adapted to a growing population of "self-relocated" Indians.

As other participants in these oversight hearings will tell you, the Office of Indian Education's Title IV Part "C" adult education services program does a good job of beginning to address these problems. What is needed is a bigger pie, and increased program emphasis on "linkage strategies" with non-Indian institutions—especially in the private sector—to strengthen Indian adult education. I have attached to my testimony our agency's brochure on this linkage strategy as we try to practice it in our own community.

Finally, it is important to know that unlike adult education as it is usually practised, Indian adult education Title IV Part "C" programs have a very strong emphasis on vocation education and counseling. Because our Indian cultures do not attach the same value to individualist competition so widely found in the majority society, it is absolutely imperative that Indian communities within this majority society establish our own approach to work and jobs so that we equally participate in this world without having to be utterly assimilated into it. That is, I think, a common right.

This is not to say that we do not appreciate or understand a new trend in adult education, in which private sector businesses themselves take some responsibility for on-the-job literacy training. Boston and Washington, D.C. offer very good examples of how this works in the electronics industry for Black and Hispanic workers. We strongly support and advocate this kind of adult learning, especially since it was the Economic Recovery Act of 1981 that had the unfortunate effect of reducing the tax base available for programs like adult education.

But on-the-job literacy training is not enough for a population that is a value-laden culture away from the electronics assembly lines, and in a nation that is still near double-digit unemployment. Mr. Perkins and members of this subcommittee, I hope you will agree with me it is time we take a serious look at the forces of continued Indian relocation and resettlement that so deeply affect Indian employment and literacy—and I hope you make a firm commitment, with me, to fight for more and better Indian adult education. Thank you.

STATEMENT OF ALLENE COTTIER, EXECUTIVE DIRECTOR, COMMUNITY ACTION FOR THE URBANIZED AMERICAN INDIAN, INC., SAN FRANCISCO, CALIF.

Ms. COTTIER. Thank you. I would like to address the issues of adult education under title IV, especially regarding some of the remarks you were making and questions about special programs and other services there to meet us and our needs.

I would first like to lay the basis for that argument by citing some of testimony that you have before you. As you may know, there has only been one professional and nationwide study of Indian adult education. That is the 1981 study on the status and

educational attainment and performance of adult American Indians and Alaska Natives, funded by the Office of Indian Education itself and published by the National Indian Management Service of Philadelphia, Miss., home of one of the best Indian education programs in the country, and that's the Choctaw Tribe.

Although the study was not designed to compare Western Indians with Eastern Indians, data analysts could not help but note extraordinary differences in literacy levels, English fluency, employment and housing conditions and other measures. As analysts, Peter Hackbert and James Curry wrote in summary.

> The results of the interview survey were dismaying. Interview subjects fell far below national norms in all categories for which national figures are available.
>
> Western Indians consistently scored lower than Eastern Indians. The low achievement scores were accompanied by high levels of unemployment, poor housing, and bad health. Eastern Indians scored better than Western Indians in all 11 adult performance categories. A great majority feel that they need more education and would like to have an education different than the one they received. Western Indians do so much more poorly than Eastern Indians with comparable amounts of education, that it is likely there is something seriously wrong with the educational facilities to which they have access.

In California, the 1980 census shows that we have 231,000 Indian people. That now makes us the largest Indian population in any State in the United States; 85 percent of that 231,000 are off-reservation. That sets us in another special unique category that the Government and Federal policy created which has caused many problems to come about.

In the State of California, of 119,549 Indian adults, over 25, 34 percent are high school drop-outs. Of 55,633 families, 28 percent are below the $10,000 annual income mark and 44 percent are below the $15,000 figure. Of Indian adults over 16, 45 percent were not working. In San Francisco County where we serve our clients' Indian education program, of 2,304 Indian adults over 25 years of age, 53 percent are high school drop-outs and 12 percent went no further than the sixth grade.

Of 548 families, 32 percent have annual incomes below $10,000 and fell short of poverty level benchmarks while 55 percent earn less than $15,000 a year. Of Indian adults over 16, 52 percent were not working with the mean unemployed period at 3½ months in 1979.

The American Indian Center had its own client intake survey in 1980 and showed a powerful and negative correlation between education and employment. One-third of these clients never finished high school and 38 percent were unemployed.

Excuse me while I scatter my notes a bit.

These Indians are undereducated, unemployed in a city that is simply devoid of labor-intensive industrial work. Instead, San Francisco's typical entry-level job is high tech, skilled clerical, exactly the kind of job for which an early high school drop-out cannot compete.

Our needs assessment yield an equally strong negative correlation between education and relocation. A blind sample of 250 of our clients showed an incredible 52 percent as recently self-relocated from home reservations to San Francisco. One-fourth of these clients brought at least three dependents with them to escape reservation poverty and chronic lack of work.

As recently as 1974, 60 percent spoke their Native language at least 50 percent of the time at home. So I think all of this lays the solid basis for, "Why special Indian programs?"

I know that Reagan's policy says, "Serve only those on reservations," but the Federal Government created the urban Indian population and the urban Indian population as we find in California, really has its heart at home on the reservations where they come from. Very few of them ever considered the urban area their home. They always think that they will go home one day when they can afford to, after they raise their children, after their children have gone through school and the like.

But we still find with their new generations that they are not competing in school and not succeeding in school. The other questions that you raised earlier were, "Are they being served by other people?" Some of the surveys we did were like this. Here is a graphic way of understanding the consequence of such a cultural gap. San Francisco County's largest adult education program, operated by a community college district with considerable State and Federal funds, including then CETA moneys, enrolled no more than 12 Indian students in 1979. From an Indian adult community of nearly 3,250, the next largest county program operated by CETA, a prime sponsor, drew just six Indian students in that same year into all its adult education programs combined. What they succeeded in doing was 69 deviations from their plan to serve students. That's where we have found that the best way to go, for certain Indians, is to link up in an urban area with the existing programs, and monitor and force their service to the Indian population which they consider marginal, invisible, non-existent and therefore not worthy of the concentration of services needed by that community. Yet our American Indian Center's own small program for adult education, drew two-thirds as many students in 1979 as the largest county adult programs taken together. It is as if only Indians will meet Indians and serve Indian needs.

Since our program began, which has only two staff, we have graduated over 300 students since 1978. That, compared to the citywide programs serving adult Indian education, is outrageous. But it also supports the fact that we know that Indian programs will serve Indians and far more successfully and cost-effectively than any other program, that any State or county may operate.

I think that the strongest arguments that the administration is putting forward now are that we have been assimilated and as you mentioned, the assumption that title IV and Indian education programs have been successful, and they have been successful, as I mentioned, for us, but on a very small level.

The need is far too great and the current economic situation and poverty on our reservations only worsens the situation. Also we are finding increased families, weekly—we have at least three families coming into San Francisco who are just off the bus from a reservation—who have tremendous needs and the basic one being education. We are all working for our tribes and our communities off reservations to establish a real self-sufficiency in a way that we can be our own masters, and we all know that historically we haven't been, for some years—too many years.

We all know, I think, on the broader scale, that no country, no community, not one nation in the world can succeed without education. A country's backbone is built on the education of its people. Success is built on the education of its people and to deprive Native Americans of education that is so necessary to growth and a real self-sufficiency, is to deprive us of becoming our own nations and our own masters of what is ours and what must be returned to us, so that we can be a part of this country, so we can be equal.

The arguments have been: "Make them equal, cut off their treaty rights and everything else." We are a distinct people with distinct communities, distinct languages, distinct rights, and the right to be equal, not only with the U.S. Government, but with the other countries of the world. Everybody knows we have a lot to contribute to the world as people, even though we are few in number and few in land base. We have a lot to contribute in human resources and natural resources to this country and to the betterment of this country, but we can't do that without true economic and community development that benefits our communities, that is not exported from our community and economic systems.

As I said, the only argument, the basis of all of that, is education. We can't reach economically the points where we can feel secure and develop, without the education of our children and the security of our children and we can only plead, "Don't take away our Indian programs." Where we have an Indian desk that heads Indian education, give us back our Indian role model. Give us back our Indian educators at the top of our Indian programs and prove that you want us to be self-sufficient.

If Reagan wants us off the Federal dole and the Federal dollar, the only way to do that is to give us our education and increase our money. I know the budget is cut, cut, cut, but the only way in the long run to cut the budget is to help us to become self-sufficient in a real way, not dependent as it has been in the past.

Thank you.

Mr. KILDEE. Thank you very much for your testimony.

Something many of us have been reading the last couple of months is a publication put out by a special commission established by the Secretary of Education with the approval of the President and they have issued, "A Nation at Risk."

Does it seem incompatible to hold what that report finds, that a nation is at risk, and at the same time, cut education programs, particularly these education programs? Does that seem to be contradictory or would you care to comment?

I am probably leaning you a bit.

Ms. COTTIER. Not at all. [Laughter.]

Mr. KILDEE. We are trying to establish a record here.

Ms. COTTIER. It's contradictory, I think. As I said, there is no way that you can take a nation out of a risk status by cutting their education. This is because education is a backbone of building away from a risk status, taking a nation out of crisis.

Mr. BENAY. In addition, it mystifies me that the President can, again, look to the States and local governments to basically give support to the educational crisis we are facing now. Again, it is unfortunate. The New Federalism doesn't work because, again, based on history, the local governments, and the State governments, do

not pick up the slack. It's got to be coming from the Federal Government.

For a group such as the Abenakis which is not State-recognized, we are not going to be getting money from the State. Locally, as I mentioned before, if left to the voters, kindergarten programs are not passed. It's got to be intervention at the Federal level.

Mr. KILDEE. I would think that would be the case in general with these cuts. I know my own State of Michigan which is going through a severe fiscal crisis just would not be able to pick up the slack in cuts in education and then beyond that, when you cut Indian education, it seems to me that it ignores the fact that the trust responsibility lies with the Federal Government. That's been deep in our history and in our court decisions. So that trust responsibility is there. I happen to think that despite feelings of people in this administration that education is the heart of that trust responsibility and I fight to put that on the record whenever I have a hearing. I think that's a very, very important part of that trust responsibility.

They would like to shed themselves of that responsibility, but I just cannot accept that. So I think there is an extra reason here when it comes to Indian education. The States are coming hopefully out, but are still very much in a recession, where they are limited in their funds for education and they do not have the trust responsibility for Indians that the Federal Government does have.

The President has said, in trying to phase out this program, that these Indians with their special status can be served better through the Bureau of Indian Affairs. You two, particularly, could you comment on that?

Ms. COUTIER. Well,the Bureau of Indian Affairs—as I stated, we have the largest Indian population and the majority of those, the very vast majority, are off reservation. Also, in California, we have a unique situation of having the small tribes where the Bureau has even set forward a special task force, to try and figure out how they can serve these little tiny rancherea tribes. This is because the Bureau's own policies are geared toward serving large tribes.

By policy, the only program that they have that will serve off reservation populations is the Indian Child Welfare Act, and I must say here, that that's one of the most successful programs that has ever come out. But the Bureau does not in any way, serve this off reservation population at any level.

Mr. KILDEE. Mr. Benay, the Abenaki Indians in Vermont are neither federally nor State recognized—are they State recognized?

Mr. BENAY. No, they are not.

Mr. KILDEE. So how would they fare under BIA?

Mr. BENAY. As I earlier stated, title IV is the only educational services available for a group such as the Abenakis. Because of the definition of the BIA, we would not be eligible for services. So, obviously, for us the vested interest is title IV. There are no other services. Now, when Secretary Bell talks of the other Federal programs that would be available for groups such as ourselves, which would include, obviously, the chapter I program, the vocational and adult education programs, impact aid, bilingual education, the point in fact, is that for a group such as ourselves, impact aid does not apply. Bilingual education does not apply. Vocational and adult

education, as I earlier stated, have moneys funneled to the States that just are not sufficient. So what we are basically talking about is chapter I services, exclusively.

Again, as I reiterated earlier, this is just not enough. Again, if I can just add, the President talks in terms of the need to return to the basics, very smugly talks about the fact that we have got to do away with the frivolous courses in whatever, but a return to the basics, I think, in most title IV, part A programs is all we are talking about. We are talking basic academic remediation at a very, very basic level. This is crucial. It should be crucial with the President's line of reasoning that a title IV program is excatly what is needed.

Ms. COTTIER. I would like to add that in terms of urban Indians, we have found two different kinds of situations where there are different relocation programs of sorts. We might cite the boat people coming to the United States as a form of relocation and because they have come in the numbers that they have, there have been many special programs set forward. Cities and States have put funds into them and justified that by saying they have *x* numbers or thousands of people to serve so that they can afford to set up special programs for these people.

When we come to them with the same programs saying,

> We have relocation policies that affect us and we have so many hundreds of people that are coming into this urban area to find the same kinds of services, they say, You are still less than one percent of our population and it costs too much to serve you.

As I indicated before, even with our very small program where we have only two staff, we have graduated over 300 individuals where the city programs with all their thousands upon thousands of dollars graduated less than 20. If you want to talk about cost effectiveness, that's clearly cost effective.

The other way that we have been successful, as I mentioned, is getting them to provide services in a way that is cost effective for both of us. I think that's part of the administration's concern. We can meet the special unique services for Indian people in a cost effective manner and at the same time, make it more cost effective for the local services to share services with us, and still meet the needs of Indian people. But there is no way, given that our program were cut off, that we would have any services.

So, without our basic services leveraging their services—so that they don't have to spend more money than they think it's worth—we wouldn't have any services. For us, title IV is all there is.

I would like to say also that in relation to trust status, unemployment, and poverty on the reservations have been forced upon us. You know, we have been taken into a Federal-dependent role and we feel that we are very much tied to the reservations and that trust status even though we no longer live on the reservations. For all of the people we can carry from a crisis status and get them employed and get them stabilized, a very large percent of them take that education and that technical experience home to the reservation.

If we can simultaneously work hand in hand to build the reservations and the urban communities, then we will survive as people

and we will no longer be at risk. But we have to have education on and off the reservations in order to succeed as people.

Mr. KILDEE. What would happen if title IV were transferred to the BIA, even if we kept the eligibility the same as is in title IV now? Do you have any thoughts as to what might happen to the program?

Ms. COTTIER. You first. [Laughter.]

Mr. BENAY. I guess it would really depend—again you said, "if criteria was kept the same?"

Mr. KILDEE. Yes, if the eligibility was kept the same, in other words, the program were just mechanically transferred from one jurisdiction to the other without changing the eligibility of students for the program.

Mr. BENAY. It would be hard for me to comment on this because of our lack of experience with the BIA. You know, the question becomes a difficult one for me. We have never dealt with the BIA. I have heard horror stories.

Ms. COTTIER. Yes. Again, with the only experience we have—the Bureau does not serve us. Even during the period of time when the Bureau was supposed to provide technical assistance and emergency assistance to new relocatees since the fifties, they rarely did that. What they did was bring the people out and desert them in ghetto situations.

What we have found currently in Bureau policy, working in a similar criteria situation with Indian child welfare, is that every year the funding process comes up. Throughout the year we are dealing with people who have accepted, for the most part, this Federal guideline of divide and conquer that has been a negative impact on Indian people and sets a competition between urban and tribal people so that even in a program like child welfare where things have been very positive, where we have taken children in an urban situation and sent them back to the reservations, where they can have a health environment in terms of cultural self-esteem and grow in that kind of environment, we are constantly fighting with the Bureau that we do have these services, we do provide a meaningful service, we do provide services that indirectly and, in some cases, very directly benefit the tribes and we can work together.

By Federal policy, we have been split and the Bureau has been the instrument to maintain that. I think that we would run into the same thing. Beyond that, there is the situation of the Bureau funds being cut, the concern that administration would take far more from the actual direct service moneys and, because of their policy, would direct that money to the tribes.

I am really cautious about this point of the argument. We wouldn't be taking money from the tribe, but title IV is all we have for off-reservation services. The tribe does have other services in addition to title IV that we can work together with and compliment. But if title IV were put there and our services were cut, even if they were cut 50 percent, we could in no way meet the need of those people coming to the urban situation and then get them back to the reservation in a positive way.

We could send them back in a casket. We could send them back with cirrhosis of the liver and many other social problems that we face that develop from economic deprivation and living in ghettoes.

We could send their children back drug addicts or whatever, but, with education, we can send them back healthy citizens, and without it we can't. The Bureau won't do it.

Mr. KILDEE. You fear that the BIA with its reservation orientation would not serve the special needs of the nonreservation?

Ms. COTTIER. No.

Mr. BENAY. Obviously not.

Mr. COTTIER. Right and I think that's why, as I stated before, we need as the head of the Office of Indian Education, an Indian person who understands this. We need an Indian role model. We need a leader there who understands the educational needs of all Indian people and we need that in the Department of Education.

We also have a lot of excellent resources that we have access to by maintaining the separate departmental administration, where if it's all under one agency like the Bureau, we lose that. We lose access and therefore the ability to leverage many more services if we keep them in different departments.

Mr. BENAY. I think that's an important point. Philosophically, when moneys were transferred and when the Indian Education Office was established under the jurisdiction of the Department of Education, again, philosophically, I think that is important for programs such as title IV to remain under the auspices of the Department of Education. Let it be known, again, the Federal responsibility vested within the Department of Education.

I think that's an important point.

Mr. KILDEE. Historically, a few years ago, I fought the battle on the House floor with the support of the vast majority of the Indians in this country to keep BIA schools from being transferred to the new Department of Education and I think that battle was correct.

Nevertheless, I still feel that the need within the Department of Education that Office of Indian Education to take care of those needs, too, which are not always the same as the needs of those who are on or near the reservation.

I recall that one battle and feel that I was correct in that battle and the majority of the Indians supported me on that. But I feel that there are more than one set of needs and more than one set of orientations to serve those needs. I myself would concur with your replies on that.

Does either one of the counsel have any questions to ask of the witnesses?

I thank you very much. I think this has been a very, very helpful hearing for us. I think Congress, as I said, is part of that Federal Government, which has the trust responsibility. Congress is part of that Federal Government which has responsibilities to make sure that the moral, legal, and treaty rights of the Indians of this country are upheld. We have not always treated the Indian nations as they should have been treated.

As I mentioned earlier, I have served under three Presidents—this is not partisan. None of those Presidents have really provided the full measure of justice which we are sworn to provide for the Indians. I have taken it upon myself as a special moral obligation. I really find it very helpful that people like yourself and the previous panel reinforce us with information because here in Washington, there is no question, knowledge is power and the more we

know about the needs of Indian nations in this country, the more we can take care of those needs.

Now we have to feed our intellect with knowledge, then our will and our hearts have to be of good will. You have to reach both. I think right now one of your immediate responsibilities is to make sure that that recommendation of Mr. Yates' subcommittee not be cut, that that is only a modest increase for past year and still below that of 1982. So I think that that's your job now to follow this appropriations process through its fruition through the entire Congress and to the Oval Office where bills are signed.

I thank all of you again for helping the Congress in carrying out its responsibilities.

The record will remain open for 2 weeks for any further testimony which anyone wishes to submit.

We stand adjourned until 10 a.m. on Thursday.

[Whereupon, the subcommittee was adjourned until 10 a.m., Thursday, June 23, 1983.]

[Supplemental material submitted for the record follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 21, 1983.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, Subcommittee on Elementary, Secondary and Vocational Education, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of testimony sent to me from Mr. Sam Homan, Director of Indian Education for the State of Oklahoma. Mr. Homan has asked that this testimony be inserted in the record for the Subcommittee Oversight hearings on Indian Education, of June 21 and 23, 1983.

I would greatly appreciate you inserting this testimony in the record.

Thank you for your courtesy and consideration.

With best wishes,

Sincerely,

JAMES R. JONES,
Member of Congress.

PREPARED STATEMENT OF SAM HOMAN, DIRECTOR, INDIAN EDUCATION SECTION, OKLAHOMA STATE DEPARTMENT OF EDUCATION

Honorable Chairman and distinguished members of the Subcommittee of Education and Labor, may I respectfully extend my gratitude and thanks on behalf of the 69,000 Indian students in Oklahoma, for permitting me the opportunity to present to this subcommittee items of very vital concern.

As we visit with State Directors of the various states and our Tribal leaders, Indian parents, and school administrators throughout Oklahoma, there is a growing alarm that a permanent Director for the Office of Indian Education Programs, United States Office of Education and the vacant positions on the National Advisory Council on Indian Education exists. Therefore, we strongly urge that the proper procedures be taken immediately to provide the opportunity to fill these vital positions.

Public Law 92-318 Title IV-A of the Indian Education Act is affording many special educatinal and culturally related academic advantages for Indian youth. But without permanent leadership the future holds a vacuum and it is occuring in a most crucial time for the Indian Education Act.

Your immediate attention to these vital matters will be greatly appreciated.

ELY, MINN., *March 19, 1983.*

Hon. CARL D. PERKINS,
Chairman, House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: Enclosed, find copy of Testimony, signed by Indian Parent Committee members, Indian parents and students, to be entered into the Congressional Records Hearings Hearings in the current sessio of Congress.

Your support is strongly urged to protest and vigorously oppose any and all cutbacks, and/or rescissions to educational funding bills, which are detrimental to our Indian youth and the nation's youth as a whole.

Sincerely,

R. H. MUNGER,
Parent and Indian Parent Committee Chairman

TESTIMONY AND STATEMENT OF RECORD

Mr. Chairperson, Honorable Congressmen and Congresswomen, elected officials:

Your attention is directed to the problem of educational funding, and more particularly to the Administration's recommended rescission in 1983 of Title IV, Impact Aid and sundry programs. These programs are vitally important to Native Americans, on or off the reservations.

Ten years ago, the school drop-out rate of Indian children was ninety (90) percent. The advent of the Indian Education Act changed this, so that now, statistics show the trend is much lower and nearer to half that rate.

The nature of these programs has been the impetus for Native Americans to become more aware of their heritage; to improve attendance, grades and retention; to provide opportunities for all Indian youth, whether they reside on or off the reservation; to involve Indian parents and families in the schools and academic life of their children; to replace hostilities with cooperative ventures between schools and Indian communities; to promote in-service programs for teachers and school staff, which increase opportunities for Native Americans to serve their people and add to their skills as educators and leaders. This is a very real and positive impact that educational funding has produced in this area.

With these thoughts in mind, let us look to the negative, devisive ramifications of the Administration's attempt to discontinue funding programs for non-reservation Indians as well as de-funding on-reservation services. Critical educational support systems for Indian persons will be withdrawn at a time when technology will demand even more success from public education; Federal programs, which encouraged Indians to leave the reservations, will be diminished to nothingness; serious problems between non-reservation and reservation constituencies will be blatantly created. The Federal government seems to be unwilling to acknowledge the tremendous gains for all Indian persons through these programs.

What is the end result, may one then ask? It is simply the terrible wasting of minds through neglect.

The General Accounting Office has issued a determination that the Administration's recommendation for a rescission in 1983 is illegal. Regardless of the GAO's statement, the Administration has indicated it's position is firm, and is pressing for the goal of rescission of these very necessary programs.

In conclusion, Mr. Chairperson, we strongly urge you to mount and support a successful front against the Administration's attack on educational funding.

This is our Testimony and Statement of Record. We of the District No. 696 Indian Parent Committee petition this testimony be entered and recorded in the Oversight of Indian Education Act Hearings.

MARCH 18, 1983.

Hon. CARL PERKINS,
Chairperson, House Committee on Education and Labor,
Washington, D.C.

HONORABLE CARL PERKINS: This letter is being written as testimony from the Title IV Indian Education Advisory Committee of Independent School District 361 that the Title IV Indian Education Program in International Falls, Minnesota has had positive impact upon our Indian children served by this program and that this program continues to be needed in public schools in Independent School District 361. We request that this letter of testimony be included in the Oversight of Indian Education Act Hearings.

Our Indian children continue to need special support once they enter educational institutions. We have learned in International Falls that the tremendous gains made by or Indian children in public schools have occurred mainly because of the existence of the Title IV Program in our public schools. Without this program our Indian children would not have the special support they continue to need once they enter educational institutions and once they move from reservation to urban settings. The dropout rate for our high school young Indian people has been decreased substantially over the last three years in International Falls, as one important example of the effectiveness of this program.

As our society continues to move rapidly into a new high-technology age, there is a demand upon all of us across the country to have an even more advanced educational background than ever before. We want our Indian children to have an opportunity to be prepared to contribute knowledge and skills gained through advanced education to the many fields that will be available when they are ready to enter the adult and work world. We are very concerned that they will not have this opportunity if early efforts to keep them in junior high and secondary schools are discontinued. In International Falls, Minnesota, we know that many of our Indian children are only beginning to grasp the expectation that they can indeed go on for further education beyond high school. We need further time in which we can instill a solid expectation in our Indian children as that they can choose to go on for higher education rather than wonder whether they can.

Our advisory committee has noted that attendance by Indian children in our public schools has improved tremendously over the past three years because of positive-reinforcement activities which they are able to obtain through our Title IV Program. Additionally, we have noted that Indian children are increasingly making positive academic and attitudinal improvement in classrooms.

We believe that we need the Title IV Indian Education Program in the public schools of International Falls, Minnesota to help us in achieving our ultimate goal of having our Indian children stand proud in the society they will live in as adults and to be proud of being in a society which assisted them in reaching their goals.

We thank you for this opportunity to provide this testimonial letter regarding the effective and positive impact that the Title IV Indian Education Program at International Falls, Minnesota has had on our Indian children.

Respectfully,

The Title IV Indian Education Advisory Committiee of Independent School District 361:

Ms. Gladys Brown, Chairperson and parent; Mrs. Susan Brown, Vice-Chairperson and parent; Mrs. Anita Stevenson, Secretary and parent; Mrs. Debra Alleman, parent; Mrs. Lynn Carlson, parent; Mrs. Judy Conklin, parent; Mr. Dan Zika, teacher; Mr. Mike Erickson, teacher; Mrs. Audrey Lucachick, teacher; Ms. Tina Boswell, student; Mr. Robert Nordrum, student; and Ms. Bessie Moyer, student.

OVERSIGHT HEARINGS ON INDIAN EDUCATION

FRIDAY, JUNE 24, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:30 a.m., in room 2175, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Kildee and Packard.

Staff present: Alan Lovesee, counsel; Jeff McFarland, assistant counsel; Marilyn Hargett, assistant counsel.

Mr. KILDEE. The hearing will come to order.

This subcommittee is conducting an oversight hearing on the impact aid program and the assistance it provides to public school districts on Indian reservations. Because of the high-cost low-wealth nature of these districts, it is essential that the Federal Government adequately compensate them for the tax revenues lost because of the presence of the tax-exempt reservation lands.

At the same time, because of the trust relationship with the Indian Nations, the Federal Government has a responsibility to insure that Indian tribes and parents have an appropriate voice in the education of their children.

With these two principles in mind, Public Law 81-874 was amended in 1978 to authorize a higher rate of payment to districts with Indian lands, and to require the development of local policies and procedures regarding Indian input and involvement. We feel that these amendments were very necessary, and have greatly improved the program.

The purpose of this hearing is to assess the continued need and the adequacy of the impact aid program. During this hearing we will hear from representatives from Federal impact school districts and organizations, and they are Mr. Glenn Barnes, president of the National Association of Federally Impacted Schools; Mr. Clarence Robinett of the Montana Indian Impact School Association, who is appearing for Mr. Larry LaCounte; Mr. Mark Ulmer, attorney for the Indian Oasis-Baboquivari Unified School District; and Dr. Thomas Glass, superintendent of the Window Rock Unified School District. Will they please come forward to the witness table.

Your entire statements which you have presented to the committee will appear in the permanent record, and if you would summarize, we would take that summary. You may proceed in any manner you wish. Mr. Barnes.

STATEMENT OF GLENN A. BARNES, PRESIDENT, IMPACTED AREA SCHOOLS ASSOCIATION, MISSION, S. DAK.

Mr. BARNES. I am Glenn Barnes, superintendent of the Todd County School District, Mission, S. Dak., which is located on the Rosebud Indian Reservation. I am also president of the National Association of Federally Impacted Schools. I did present my written testimony to you. I will just try to pick out a few of the highlights that I would like to share with you concerning the need for the continuation of impact aid for Indian districts, but again, as president of the national association, I think many of the remarks that I will make would also be pertinent to impact aid as it would affect military impacted schools as well as other impacted school districts, which could include low-rent housing, but primarily I will be confining my remarks to Indian impaction.

I think in order to give you a picture of the need for reauthorization of the impact aid program, I would like to use my own particular district as somewhat of a typical example of the need for impact aid. The Todd County School District, as I mentioned, is located on the Rosebud Indian Reservation. We have approximately 1,850 students in grades K–12. Eighty-five percent of those students are of Indian descent, and about the same percentage are federally connected, primarily in the A category, living on and working on nontaxable land. About two-thirds of the land in our particular district is nontaxable. The other one-third of the taxable land is primarily farming and ranching.

I think one of the things that the committee should recognize again, typical of most heavily impacted districts, is that there are certain high-cost factors present in practically every Indian impact district. Possibly we could call them unique features that are true in an Indian district that may not necessarily be true in your typical school district aross the United States. One of the unique factors, of course, would be the lack of tax base. As I have already mentioned, two-thirds of our land is nontaxable.

The assessed valuation per resident child in our particular district is roughly $4,300. This compares with the typical South Dakota district of something around $28,000 of tax base behind each resident child. Practically all of the new industry that has started in our particular district has been located on nontaxable land, again meaning that we could not derive any additional support for our schools from that being put on the tax roll.

Sparsity, I think, is another unique factor, true, of most Indian impact districts. In our particular case, we have 1.25 students per square mile, which means that we have to transport most, the majority of our students daily over bus routes. As a matter of fact, we have transported about 65 percent of all of our students daily, over routes amounting to 2,195 miles per day. Most of these bus routes are on unpaved highways, and it is not just gravel.

In many cases it would be dirt roads that necessitate four-wheel drive vehicles, and several factors come into play there that would make it a high-cost operation: One, the operating of vehicles over that type of a road means the replacement life is possibly half of what a typical school bus would be.

The sparsity factor also means that we have to have more attendance centers, because we cannot transport the students, especially the elementary students, on routes that would extend as long as 30 or 35 miles.

Another unique factor that I think is true in most of your Indian reservation schools is that the general economic level is much below the national average. I think that in the case of, again, most Indian impact districts, we would be happy to settle for the national average of unemployment that is now considered much too high in the 10 percent. I don't think that we very often get below 30 or 40 percent on the unemployment rate.

Another unique factor that we have in our particular district, we must provide housing for our teachers. We have around 75 to 80 housing units. Again, this is something that our district has to do, because housing is just not available for teachers, and unless we have some incentive in addition to salary for the teachers to come in, then several factors:

One, we would not get the quality of teachers that we want.

Two, the turnover would be much too high. So we have to have factors that would cause us to retain the teachers.

Another unqiue feature of our particular district that I think would be true, again, of most Indian impact districts is the lack of capital outlay money. Our district can raise approximately $80,000 a year taxing the maximum for capital outlay.

Again, a district the size of ours, $80,000 does not go very far in new construction. It would amount to approximately one classroom per year, and our district is one that is continuing to either maintain population or continuing to grow. As a matter of fact, our enrollment has increased about 7 to 8 percent in the last years.

I think that a few words in summary should be given. In the case of most Indian impact districts, lack of impact aid money simply means that we do not continue to operate. The alternative to that, of educating Indian children in the public schools, might be to put the Indian children in BIA schools. To me that is not a viable alternative at all, for several reasons. One, of course, is economic.

We can educate Indian students in public schools with the help of impact aid, with the help of state aid, with the help of local taxes much more reasonably than can the Federal Government operate BIA schools. In our particular reservation, we do not have a BIA school, so if impact aid was not continued, I am not sure where our students would go. They would have to go to another reservation, or the Bureau would have to come in and build a new school. I don't think that is reasonable in any sense.

I guess the biggest argument that I could make for impact aid on Indian reservations to educate Indian students in public schools is the fact that I think it has been recognized that there is a unique and special relationship between the Federal Government and Indian people, brought about by treaties, brought about by laws, and neither the treaties nor the laws were passed by the various States, nor were they passed by the local school districts.

Therefore, I think it follows that the Federal Government has an obligation to live up to the laws that were passed taking the lands off the tax roll, live up to the treaties that were signed, recognizing the unique needs of the Indian people.

Just in summary, unless the Federal Government can come up with a viable alternative to impact aid, then I think it would cause many school districts across the Nation, to close, many others to reduce the educational opportunities for these people that need the education possibly more than any other segment in our population, in order to remove the dependency that has been around their neck for so many years, brought about by, again, many Federal laws and treaties.

I would urge the committee to consider very strongly the negative aspects that would occur if impact aid was not continued, and secondly, if impact aid was not continued at a level that would permit us to educate the Indian students.

One of the major problems that we have had in the last three years, brought about by the Reconciliation Act of 1981, putting a cap on the moneys coming into the reservation schools, going back to the payments of 1981, and prorating them down, meant that those school districts that had the least opportunity to raise funds elsewhere, either by local taxes or by some other source, simply meant that the districts that needed the help the most were hurt the most.

Fifty-six percent of our money comes from impact aid in our school district. If there is a reduction across the board, let's say of 10 percent of impact aid, 10 percent, if that only makes up 5 percent of your budget, is one thing. If it is a 10 percent reduction, and over half of your money comes from impact aid, then that is totally another matter, and that is the thing that has really hurt our districts in the past 3 years.

Proration across the board hurts the heavily impacted districts much more than it would hurt anyone else.

As Congress looks at new legislation, I would hope that there would be language included which would prevent proration of funds for heavily impacted school districts.

Thank you, Mr. Chairman.

Mr. KILDEE. Thank you very much, Mr. Barnes.

[Prepared statement of Glenn Barnes follows:]

PREPARED STATEMENT OF GLENN A. BARNES, PRESIDENT, NATIONAL ASSOCIATION OF FEDERALLY IMPACTED SCHOOLS AND SUPERINTENDENT, TODD COUNTY SCHOOL DISTRICT, MISSION, S. DAK.; ON BEHALF OF THE NATIONAL ASSOCIATION OF FEDERALLY IMPACTED SCHOOLS

Mr. Chairman and Members of the Committee: I am Glenn A. Barnes, Superintendent of the Todd County School District, Mission, South Dakota, which is located on the Rosebud Indian Reservation. I am also President of the National Association of Federally Impacted Schools.

We appreciate the opportunity to appear before your Subcommittee today and share some of our thoughts and concerns relative to the reauthorization of the Impact Aid program (Public Law 83-874, as Amended).

As President of the National Association of Federally Impacted Schools, I represent the entire membership, which includes both military and Indian impaction, however, I understand that this particular hearing is directed primarily to Indian education. Most of my remarks, therefore, concerning the Impact Aid program will be centered around Indian impaction but in most instances, like problems and conditions exist in those schools in other sections of the Impact Aid program.

In your letter of invitation to testify before this committee you indicated that of particular concern to the members of the Subcommittee were our views on: (1) the need for the Impact Aid program; (2) how well the program is working, and (3) whether changes in the law or regulations should be considered.

Inasmuch as the continuation or reauthorization of the Impact Aid program is of the primary importance I will attempt to address the need by using my own school district as somewhat of a typical example of a heavy impacted public school containing large tracts of non-taxable Indian lands.

The Todd County School District is located on the Rosebud Indian Reservation in South central South Dakota. The student enrollment is approximately 1870, K-12, 85 percent of whom are of Indian descent. Eighty-three percent of the students are federally connected, most of whom are 3A (parents live on and work on non-taxable land).

Two thirds of the land is classified as "Indian Land" and is therefore non-taxable. The primary industry in the District is cattle ranching and some farming. Outside of the agricultural industry, which employs relatively few people, there is very little industrial development. Unemployment is extremely high and many of the jobs that are available at various times are funded by "federal program" money that is temporary at best.

The operation of a school in a rural Reservation setting has many unique features, all of which substantially add to the cost of operation. I will enumerate the unique features of the Todd County School District and I do believe that those same features would be found in most other schools of a similar nature.

TAX BASE

Approximately two-thirds of the land in the school district is non-taxable Indian land. The assessed valuation per resident child (5-18 legal age) in 1979-80 was $4,322.00 compared to the state average $28,754.00. Other than agriculture and some private dwellings the only other major tax sources are an electric cooperative, telephone company and one branch bank.

Any new industry that has been started in recent years on the Rosebud Reservation has been located on Indian lands and has not been added to the tax lists. Incidently, most of the industry that has started in the county has failed to survive thereby forcing the employees to again become dependent on federal programs. This fact should address the thesis advanced by some that federal impact is a financial plus for school districts. This is not so on an Indian Reservation.

B. SPARSITY

The average daily student membership in the school district per square mile is 1.251. Sixty-five percent of all students are bused daily over 2,195 miles of bus routes. Thirty-nine percent of the bus route miles are over gravel or dirt roads—many of which necessitates 4-wheel drive vehicles. The net result of the poor roads is a severely shortened bus life as well as increased maintenance costs.

The sparsity factor also necessitates additional attendance centers because it is not feasible to transport elementary children great distances for school attendance.

The net results of added attendance centers are added costs per pupil for educational services because you cannot enjoy economy of larger classrooms, fewer administrators, lower utility costs as well as better utilization of transportation, lunch services, maintenance services and supervision.

C. SOCIOECONOMIC CONDITIONS

The general economic level of the majority of the residents in the school district is much below both the state and national averages. Services that one would expect from parents in a typical school district are unable to be performed on an Indian Reservation by many of the parents due to lack of money. Examples would be transportation for health services and school activities. As a consequence it becomes necessary for the school district to provide those services. The Todd County School District operates activity bus routes that, in most cases, duplicate the earlier schedule. The alternative is denying the student the opportunity to participate in any after-school activities.

D. ABSENCE OF LIVING QUARTERS FOR STAFF

There is almost a total absence of rental or purchase units available for certified and support staff employed by the School District.

If the school district is to maintain an educational program, and be able to attract and retain staff, it is necessary to provide low-rent housing for the majority of the professional employees as well as some of the support staff.

The Todd County School District presently maintains 79 rental units throughout the county. Replacement costs and supervision, as well as maintenance and energy

saving projects are most expensive. It is not however an uncommon and additional cost of education on an Indian Reservation as can be attested to by the Bureau of Indian Affairs.

E. LABOR MARKET COMPETITION

Hourly wages paid to classified employees are generally higher in public schools located on Indian Reservations than in other schools districts located off Reservations in South Dakota. The reason being the relatively high wages paid by the Bureau of Indian Affairs, Public Health and the Tribe. If we are to recruit and retain competent employees we must meet or exceed the competition.

F. LACK OF CAPITAL OUTLAY MONEY

South Dakota law limits school districts to a tax levy of 5 mils for capital outlay purposes. This limit translates into approximately $72,500.00 per year for the entire district of $39.00 per child. If we could raise the state average amount per child it would give the District $484,000.00 yearly for capital outlay purposes.

The point we wish to make is that practically all maintenance costs, including new roofs, energy saving renovations on older buildings and added insulation must come from the general fund budget. We have requested funds from the Bureau of Indian Affairs for major repairs on federally-owned school buildings which we operate. We were turned down with the direction that the money should come from our present genral fund budget. This then means Public Law 874, state aid and local tax-funds.

G. LOSS OF AVERAGE DAILY ATTENDANCE

Traditionally the attendance of many Native American students has been relatively poor and Todd County is no exception, especially at the Junior-Senior high school level. Public Law 874 payments are made on ADA basis—consequently poor attendance has a direct bearing on income. Payment on an average daily membership would increase our income approximately eleven percent. The educational costs continue at basically the same rate whether the student is in school or not. As a matter of fact, it costs more when they miss repeatedly because of extra time spent in attendance efforts.

It is very clear on the basis of the statistics cited what importance Impact Aid has for a school district such as ours. Our position is simply that we do not continue to exist without Impact Aid. It is not a question of reducing staff, discontinuing programs, or cutting out athletics, it is rather which month in the next school year do we close our doors if the Impact Aid program would not be continued.

It has been firmly recognized for many years, and reaffirmed by the Commission on the Review of the Federal Impact Aid program, that there exists a special unique relationship between Indians and the Federal Government. This has been established by treaties and laws signed and passed over the past many years. It therefore follows that there is a recognized obligation on the part of the United States Government for services to Indian people especially those still residing on Reservations or Indian lands. Neither the states nor the local districts made the decision that Indian lands were tax exempt. This decision was made by treaties or by Congress.

In the case of Indian students, if Impact Aid were to be discontinued, the question "where do they go to school" becomes critical. The only apparent solution would appear to be Bureau of Indian Affairs schools. This however, is not a viable solution because BIA schools are not available in many areas, and if they were, the resulting cost to the Federal Government would be significantly more than would be paid out in Impact Aid.

In an effort to translate the above information into a monetary impact upon a typical Indian Impact district, I shall again use the Todd County Schools as an example. Fifty-six percent of our budget comes from Impact Aid, thirty percent from the state, with the remaining fourteen percent coming from local taxes and other local sources. Loss of any portion of Impact Aid has an immediate and direct effect on the educational opportunities of our students. Loss of Impact Aid then translates to, depending on the degree of loss, first a minimal educational program followed by the closing of the school.

I would point out again that most of the conditions and problems existing in school districts impacted by Indian lands would also be present in those school districts impacted by military reservations or low-rent public housing.

In summary of my views on the need for the continuation of the Impact Aid program, I would just have to say that without the reauthorization of the program at

an adequate level of funding, ten of thousands of young people in America would suffer irreparable damage to their educational progress.

The justification for the continuation of the Impact Aid program has recently been reaffirmed by the Commission on the Review of Federal Impact Aid Program (September, 1981) and Congressional Research Service, The Library of Congress; (Background and Analysis of Current Provisions of Public Law 81-874 Impact Aid) (1983).

I shall now comment on your concern as to how well the program is working. In my opinion, most of the problems relative to the operation of the program revolves around the funding levels dictated by appropriations as well as the Omnibus Reconciliation Act of 1981 (Public Law 97-35). Appropriations for the program have not been sufficient to fund the formula resulting in pro rata reductions that have had a devastating effect on all impacted school districts but more especially the heavy impacted districts. Pro rata reductions on Impact Aid payments that make up 5 percent of a school budget is one thing but those same reductions of payments that make up over 50 percent of the entire general fund budget is entirely a different matter. It is difficult to justify the reduction in the first instance and totally impossible for Congress or the Administration to justify the latter.

The reduction brought about by the Omnibus Reconciliation Act of 1981 has in effect nullified the high education cost differential provided for in the Education Amendments of 1978 which provided that Impact Aid funding for children who reside on Indian lands be increased to 125 percent of the normal entitlement. Tying current payments to the level of some previous years totally disregards the payment provisions of the law, increased student population in a district, as well as ignoring growing costs brought about by inflation and such things as higher social security rates.

Pro rata reduction has the greatest negative effect on those local school districts that has the least potential to raise money from any other source.

The solution to the funding problem is reauthorization of the program with a level of funding that will permit the federal government to meet its' obligation to provide an adequate level of education for children residing on federal property or residing with a parent working on federal property.

As far as recommending changes in the law or regulations, should reauthorization come about, other than the serious problem of pro rata reductions for heavily impacted districts, I would prefer to withhold recommendations from the National Association of Federally Impacted Schools until a later time when we can seriously address various problems that might effect local school districts participating in the program.

Thank you for the opportunity to submit testimony in support of the continuation of a very important educational program that enables the federal government to meet an obligation that cannot be shifted to state and local governments.

Mr. KILDEE. Thank you very much, Mr. Barnes.

Before I go on, I want to first of all—I should have done it initially—express my gratitude for your patience, for all the witnesses, your willingness to stay after the hearings were unable to be held yesterday. As you know, we had a markup on the immigration bill in the full committee, so we could not meet as a subcommittee, and yesterday we also had two major bills on the floor, the budget resolution and the tax cap, so I especially appreciate those of you who have come from a distance to be patient with us and stay over for the hearing.

Before we go on to the next witness, I would also like to concur with what you have said to maybe set the tone of my feelings here. I concur the Federal Government has a special responsibility, and I think a trust responsibility, in the area of education, even though there are some now at the other end of the avenue who say that education is not part of the trust responsibility.

As I said in the previous hearing, too, I commend people in Government, in education, to go down to our National Archives down the street, and look at the treaties that have been signed with countries in Europe, countries in Asia, with friends, enemies, and

look at the treaties also in that same archive signed by the Indian Tribes and Nations of this country, and almost without exception in those treaties there is a commitment on the part of the Federal Government to education.

I think such things as title IV, which we discussed the other day, impact aid, are all ways of the Federal Government carrying out its part of that treaty, because the Indian people, the Indian Tribes and Indian Nations gave up a great deal in those treaties, very often not too freely, but in giving those lands and rights up, they did receive the commitment of the Federal Government for education. That is why I think that this Congress, which is part of the Federal Government, and the trust responsibility is inherent in the entire Federal Government, not just the executive, not just the BIA, not just the Department of the Interior, but of the entire Federal Government, that this Congress has an obligation, moral, legal, and treaty obligation, to uphold our part of those treaties with the Indian people, tribes, and nations.

I concur totally with the tone which you have set in your testimony, that this is a Federal responsibility.

If Congress would change impact aid for other people—and I would hope they would not—I think impact aid makes sense in general, but if they were to change it for other people, there is still a special reason why it should exist for the Indian people, tribes and nations of this country. I just want to concur totally with your statement.

Mr. KILDEE. Our next witness is Mr. Clarence Robinett of the Montana Indian Impact School Association, appearing for Mr. Larry LaCounte.

STATEMENT OF CLARENCE ROBINETT, FOR LARRY LaCOUNTE, PRESIDENT, MONTANA INDIANA IMPACT SCHOOLS, LODGE GRASS, MONT.

Mr. ROBINETT. Thank you, Mr. Chairman. As a member of the Indian Impact Schools of Montana, and an executive member of this committee, I wish to thank you very much for the comments that you just made. I certainly appreciate this position.

On behalf of the Indian Impact Schools of Montana, I would like to thank the subcommittee for inviting us to appear here this morning. I would like to further endorse some of the things that were said by Mr. Barnes, as they certainly relate to our districts, and most specifically to mine. His comments about transportation, housing, and taxable evaluation certainly apply to all of the districts in Montana.

As an example, I am superintendent of the Lame Deer Public Schools on the Northern Cheyenne Reservation in the southeast corner of Montana, and we levy a 50-mile district levy on the few taxpayers that we have, and it raises a total of $8,000 for a district with a $1.5 million budget.

Very briefly, Mr. Chairman, let me describe who we are. The Indian Impact Schools of Montana is very much what our name implies, an association of Indian impacted schools within the State of Montana. We have been in existence for almost 2 years with the purpose of enhancing the role of Indian impacted school districts

within the total national impacted school network. We are totally supportive of the National Association of Federally Impacted Schools and consider ourselves—as a network of Indian impacted schools—complementing the national organization.

On June 9 and 10 of this year, we hosted a National Indian Impacted Schools Conference in Billings, Mont. There were impact school representatives in attendance from 14 States. The intent of the conference was to draw attention to the problems faced by Indian impact school districts and to develop a national network of Indian impacted school districts to assist in a national effort to reauthorize and improve Public Law 81-874.

Mr. Chairman, I cannot come before this subcommittee today and pretend to speak for all the Indian impacted school districts throughout this country. I can only speak for the Indian impact schools of Montana. I would, however, Mr. Chairman, venture to guess that most, if not all, of my comments are supported by the total Indian impacted school district community.

Mr. Chairman, my testimony this morning will touch on five points, not necessarily in any particular priority:

One. First of all, the Indian Impact Schools of Montana wholeheartedly support the reauthorization of Public Law 81-874 and we compliment the chairman of this subcommittee for the introduction of H.R. 11.

Two. We support the basic principles of part A to title XI of Public Law 95-561, the Elementary and Secondary Education Amendments of 1978. We feel that the additions to Public Law 81-874 made by this committee and the Congress in 1978 to (a) insure tribal input into the education decisionmaking process and (b) to acknowledge, by increasing the entitlement for "A" category Indian children to 125 percent, that the cost of educating Indian children is higher than the norm, represented a commitment in Federal policy to recognize the real world of Indian public education. We applaud this committee for taking the initiative to make those changes.

Three. We are deeply concerned over what may become a trend within the Department of Education concerning their approval of State education equalization formulas/plans. We are fearful that such approvals may occur without any regard to the disparity of costs between a school district impacted by Indian children and one which is not. The most recent example being the State of Arizona.

Four. We request that this subcommittee strongly consider amendments to the present law which will make the entitlement and payment computation process within Public Law 81-874 less complicated and more complementary with the public school district budgeting process. The present system makes it extremely difficult for school boards and school administrators to financially budget for the school program.

Five. Finally, we request that you and your subcommittee staff strongly consider the recommendations made by the 1981 commission on the review of the Federal impact aid program in any reauthorization effort.

Mr. Chairman, let me briefly elaborate on each of these points.

1. REAUTHORIZATION

Reauthorization is essential. I do not have to go into the history of this program. Let me just say that in the State of Montana, those school districts which are heavily impacted by Indian children would not be able to operate if the funds received from Public Law 81-874 were cut off or even slightly reduced. In my own school district, Lame Deer, on the Rocky Boy Reservation, for example, without Public Law 81-874 funds we would not exist.

My school district is 100-percent impacted with Indian students. The percentage which supports our budget is 56 percent. We received less than 50 percent of entitlement in 1982 because the funds were not available, and were tied on to 1981.

Instead of using entitlement, we were funded only on the basis of a percentage. Without 81-874, the impacted schools of Montana would either close their doors immediately or face such drastic cuts in its academic program that, as Mr. Barnes indicated, many would face noncompliance with state-mandated minimum standards for academia. The continuation of Public Law 81-874 is totally supported by the Indian Impact Schools of Montana, and we urge its reauthorization.

2. PUBLIC LAW 950-561, TITLE XI, PART A

The policy and procedures incorporated in Public Law 95-561, title XI, part A, are in our opinion an excellent addition to the law and do help insure more meaningful tribal input. I must, however, point out to the subcommittee that we in Montana are rather unique in this regard in that almost all of the school districts with Indian impacted children are governed by a majority Indian school board, therefore the provisions found in Public Law 95-561, part A of title XI are not a problem.

I would suggest to the subcommittee, however, that they solicit the input from other impacted school districts in other States which do adhere to the policies and procedures found in part A of title XI.

The 125 percent entitlement, as mandated in part A of title XI, has, in the State of Montana, been godsend. The appropriation cuts 81-874 has received over the past 2 fiscal years have been absorbed in many of our State's schools because of the fact that the Indian students are weighted at 125 percent.

It is a fact of life that because of the isolation and high transportation cost of Indian impacted public school districts, our average per pupil expenditure exceeds the State average. In school year 1981-82, the Montana elementary nonimpacted school district average per pupil expenditure was $1,672, while for impacted elementary school districts the figure was $2,210.

At the high school level, the nonimpacted average per pupil expenditure was $2,193, while the impacted school district's average per pupil expenditure was $3,538. The 1978 amendments acknowledged the reality of the high-cost Indian impacted district, and we support its continuance and seek this subcommittee's support for full entitlement.

3. EQUALIZATION

Although we in Montana have not yet experiencd the effects of a State equalization plan, we are deeply concerned over what the consequences of equalization may be on a State education financial plan if Public Law 81-874 funds are totally absorbed by the State. The State of Arizona has shared with us their experience with equalization, and to the Indian impacted districts in Arizona it represents a threat to their very survival.

Mr. Chairman, I would like to submit for the record a copy of a resolution passed at our National Indian Impact Aid Conference, June 9 and 10, which addresses this issue.

Mr. KILDEE. Without objection, that will be made part of the record.

[The resolution follows:]

RESOLUTION SUBMITTED BY LARRY LACOUNTE, PRESIDENT, INDIAN IMPACT SCHOOLS OF MONTANA

Whereas on September 1, 1981 the Commission on the Review of the Federal Impact Aid Program, after two years of study based on field hearings, adopted a Report on the Administration and Operation of Title I of Public Law 81-874 recommending stricter standards for federal approval to equalize impact aid and a prohibition of federal approval to equalize impact aid for heavily; impacted local educational agency,

Now therefore be it resolved that the assembled participants in the National Indian Impacted Schools Conference, Billings, Montana, June 9 and 10, 1983 support enactment into law of amendments to Public Law 81-874 which:

(1) Prohibit federal approval to equalize impact aid for states which have not already received federal approval to equalize impact aid, and

(2) Condition federal approval to equalize impact aid upon a showing that the state school finance plan under consideration fully provides for necessary variations in actual costs per unit of educational need among local educational agencies, and

(3) Exempt from any state local educational agency expenditure limitation impact aid revenues (a) attributable to the 50 percent add-on for students residing on federal Indian trust land, and (b) sufficient to fund any state local educational agency budget override option to the same extent allowed under state law for non-federally impacted local educational agencies, and

(4) Provide for adequate notice to tribal governments of a state's application to equalize impact aid so that they may participate as equal partners with local educational agencies in the federal review of that application.

Mr. ROBINETT. Mr. Chairman, the bottom line to our concern rests with the fact that no State equalization plan should be approved by the Department of Education, which would include 81-874 funds. That does digress some from my written statement.

This view is comparable with the commission on the review of the impact aid program recommendation No. 4 to the question, "Should the States take impact aid payments into consideration in their State aid program?" The commission's recommendation No. 4 states, "that the payment to a local education agency having a heavily impacted school district shall not be taken into consideration." We strongly urge the subcommittee to consider this issue in its reauthorization efforts.

4. IMPROVEMENTS

Mr. Chairman, I know you have heard recipients of Federal programs complain about the difficulties they encounter in program budgeting and planning when a substantial part of that budget is dependent on Federal dollars. This is very much a problem with

heavily impacted school districts. Not only are we always receiving a payment based on a student count which is already more than a year in the past but, in addition, we never know on what our payment will be based.

As you know, over the past few years everything has been based on the payment received in fiscal year 1981. Add to this the fact that the appropriation bill has not passed the Congress before the start of the new fiscal year, but rather late in the year and usually as a continuing resolution. The Indian Impact Schools of Montana would recommend that the subcommittee consider exploring the feasibility of forward funding the program. This would allow me as a school administrator to know my budget well in advance and to be able to develop my school program on a sound financial data base.

Second, a more simplified payment/entitlement approach rather than one based on an earlier year payment would make the Federal contribution rate—which I think is the proper term to describe the Federal payment—more in tune with the actual cost of operating a school. I realize much of this is an appropriation issue; however, anything in which you, the authorizing committee can do to simplify the entitlement process would be applauded throughout the 81-847 constituency.

5. SUPPORT THE COMMISSION'S RECOMMENDATIONS

Finally, Mr. Chairman, I request that I may submit for the record that portion of the Commission on the Review of the Federal Impact Aid Program report which alludes to the funding of Indian impacted children.

Mr. KILDEE. Without objection, that will either be included in the permanent record, depending on the length, or kept in the file of the hearing.

Mr. ROBINETT. Thank you, sir.

The Indian Impact Schools of Montana request that the subcommittee strongly consider the recommendations made by the Commission in their reauthorization efforts.

I will close my testimony, Mr. Chairman, by quoting from a portion of the Commission's report addressing the question, "What is the obligation of the Federal Government with respect to the education of children connected with Federal property?" The Commission recommends:

(1) That the Federal Government expressly recognize its obligation to provide an adequate level of education for children residing on Federal property or residing with a parent working on Federal property by amending the law declaring such an obligation, and that the Federal Government has a special obligation with respect to children who both reside on and reside with a parent employed on Federal property;

(2) That (a) the Congress recognize that the United States has a special and unique obligation with respect to the education of Indian children which arises from treaties between the United States and Indian tribes and that the impact aid program is one of several means by which the United States can, in part, satisfy that obligation.

As I say this, I am reminded of your comments which were well placed and support that position.

Mr. Chairman, thank you for affording us the opportunity to present our views and please feel free to call upon the Indian

Impact Schools of Montana at any time to assist you in your efforts to obtain the information necessary to make the subcommittee's reauthorization efforts a successful venture.

Mr. KILDEE. Thank you very much, Mr. Robinett.

Mr. Williams, who had hoped to be here this morning, wanted me to extend a special welcome to you all.

Our next witness is Mr. Mark Ulmer, attorney for the Indian Oasis-Baboquivari School District, Sells, Ariz.

[The prepared statement of Mark Ulmer follows:]

PREPARED STATEMENT OF MARK ULMER, ESQ., INDIAN OASIS-BABOQUIVARI UNIFIED SCHOOL DISTRICT NO. 40

My name is Mark Ulmer and I am the attorney for Indian Oasis-Baboquivari Unified School District No. 40, a public school serving the main Papago Indian reservation in southern Arizona. On behalf of the students, parents, and governing board of Indian Oasis, I thank the Subcommittee for this opportunity to testify regarding the Public Law 81-874 federal impact aid program. My testimony will first address the need for federal impact aid. Thereafter, I will discuss some serious problems in the program which have arisen as a result of recent changes in the school finance laws of the State of Arizona.

The Indian Oasis school district encompasses all of the main Papago Indian reservation within Pima Country, Arizona. See, Exhibit A, Map Showing Boundary of Indian Oasis-Baboquivari Unified School District No. 40. The district, one of the most extensive in Arizona, covers 3,664 square miles of sparsely settled Sonoran desert. Indian Oasis serves approximately 944 students in grades kindergarten through twelve; 97 percent of the students are Papago Indian. Indian Oasis operates two elementary schools and one high school. Virtually all of the certified teachers are non-Indian. All school facilities are located in or near the town of Sells. The nearest urban center is Tucson, located sixty miles to the east.

Public Law 81-874 revenues are vitally important to Indian Oasis first, because the district's tax base is limited and second, because the district operates in a high cost environment with a student population having special needs. Without impact aid, Indian Oasis would not have enough revenue to fund its actual operating costs, nor would it be able to provide Papago students educational opportunities even remotely equivalent to those available to non-Indians off the reservation.

1. LIMITED TAX BASE

Indian Oasis is able to raise only a tiny fraction of its operating revenues through local taxes because virtually all of the land within its boundaries is tax exempt federal Indian trust land. The taxable assessed valuation of the district for the current year, consisting of tribal lands leased to the El Paso Natural Gas Company and the Mountain Bell phone system, is only $1,773,439. Thus, the amount of taxable wealth behind each Indian Oasis student is a meager $1,879. The standard Arizona school district tax rate of $3.46 per $100 of assessed valuation will generate annually for Indian Oasis only $56 per student for operations. The Papago district must, therefore, rely on a combination of federal impact aid and state assistance in order to keep its doors open.

The extent to which Indian Oasis depends upon the federal impact air program can be seen by examining the district's Maintenance and Operation budget. The Maintenance and Operation budget (hereafter M and O) is the budget through which Public Law 81-874 funds, state assistance, and tax revenues are expended annually to meet the district's day to day operating expenses. The M and O budget is the financial backbone of Arizona public school finance since, under state law, it is the sole source of funds for the basic school program. Among the items financed with M and O revenues are classroom teachers, administrators, counselors, maintenance workers, bus drivers, school bus fuel, and utilities.

Exhibit B depicts the Indian Oasis M and O budget for the school fiscal year beginning July 1, 1982 and ending June 30, 1983. Total M and O revenue available for the 82-83 school year is $2,970,918. Of this amount $1,000,000—34 percent of total M and O revenue—is federal impact aid. The $1,000,000 of impact aid does not include portions of the district's allocation which will be paid between June 30 and the close of the federal fiscal year on September 30, 1983. For reasons which I will discuss later, Indian Oasis requested the U.S. Department of Education to delay remaining impact aid payments for the 1983 federal fiscal year until after June 30.

2. HIGH COST ENVIRONMENT

Conditions on the Papago reservation cause Indian Oasis to have operating expenses demonstrably greater than the average public school in Arizona. Nevertheless, Arizona has established funding formulas for the allocation of state assistance to public schools on the basis of average- -or even less than average—revenue requirements. .f Indian Oasis had to rely solely on state assistance, the school's M and O revenues, particularly in the areas of operation and transportation, would be wholly inadequate.

Many Indian Oasis students live in small, isolated villages scattered across the expanse of the reservation. In order to transport these students to and from school, the district operates twenty-seven bus routes. Eight of the bus routes are between twenty and thirty miles in length one-way and four of the routes have a one-way travel distance of between thirty and forty miles. For two bus routes, the one-way travel distance exceeds forty miles. Arizona's formula for allocating transportation assistance does not provide fully for these uncommon distances, nor does it adequately consider that the buses frequently operate on rough roads which cause higher maintenance and fuel costs. The Indian Oasis transportation outlay in the next school year will exceed $350,000, but under Arizona's allocation formula the state assistance payment for transportation will be only $275,000.00.

Isolation from major labor and material markets is another factor increasing costs. For example, Indian Oasis has been unable to purchase an entirely modern fleet of vehicles because of its small tax base for capital outlay. Thus, many school vehicles are inefficient, old, and subject to frequent breakdowns. The district operates, at considerable expense, a garage in Sells to try to maintain its vehicles. Frequently, however, the vehicles cannot be serviced without making the one hundred and twenty mile round trip to Tucson for parts. Sometimes the vehicles must be towed to Tucson because the repair job is beyond the means of the local labor force.

Rural isolation increases operating costs in other ways as will. The district must own and operate a tow truck in order to haul vehicles to the Sells garage when they break down in outlying areas. The district is also required to own and operate a water well, pump, and storage system for a portion of the high school. In a different vein, Indian Oasis must provide homebound special education services to a severely retarded student living eighty miles west of Sells. This effort consumes 20 percent of one special education instructor's time per week. The district owns and maintains thirty-two housing units—an expense unheard of off the reservation—because housing is unavailable commercially. Due to the unavailability of substitute teachers in Sells, the district is one of the few in Arizona which must pay tecahers for unused sick leave at the end of the year. This policy keeps teachers in the classroom and avoids the intractable problem of finding substitutes, but it is enormously expensive.

Many goods and services are simply unavailable on the reservation. When Indian Oasis needs an electrician, plumber, or other skilled repairperson, the worker must be imported from Tucson and the district is billed for one hundred and twenty miles of travel. Similarly, essential items such as fuel, heating gas, and classroom supplies carry a transportation surcharge. Much of the district's physical plant and teacher housing is deteriorated, with the result that higher than average outlays for maintenance and utilities are necessary.

The magnitude of extra cost factors at Indian Oasis is shown in Exhibit C, "Table Comparing Percentages of Total M and O expenditures for Combined Arizona School Districts with Indian Oasis-Baboquivari." In the table, the figures on the left express, for the state as a whole, the average percentage of total M and O expenditures in the five main categories of the M and O budget for the fiscal years 79-80, 80-81, and 81-82. On the right are the corresponding percentages at Indian Oasis for the accounting period July 1, 1982 through December 31, 1982. (An April 20, 1983 budget analysis by the Indian Oasis Superintendent showed that the percentage figures indicated for Indian Oasis in the table will remain the same at the close of the fiscal year on June 30, 1983. The analysis further showed that total M and O expenditures by Indian Oasis for the fiscal year ending June 30, 1983 will equal the maximum allowed under state law.)

The table demonstrates that Indian Oasis is required to spend a significantly greater percentage of its M and O budget in the key budget categories of transportation and operation than the state as a whole. The result is that a much smaller percentage of the Indian Oasis M and O budget is available for regular instruction and special education.

3. STUDENT NEEDS

The Papago reservation, like most Indian reservations in Arizona, suffers from the effects of high levels of poverty. Fully 95 percent of the students at Indian Oasis meet the poverty criteria for Chapter I of ECIA, the old Title I supplementary education program. These students confront on a daily basis poverty conditions of staggering proportions: severely deteriorated home environments, unemployment rates in excess of 50 percent, extraordinarily high rates of diabetes, infectious disease, alcoholism, substance abuse, and teenage pregnancy. Special, and costly, measures are required if Indian Oasis is to provide equal educational opportunity to students under these conditions.

On the simple level of nutrition, the Papago district must provide free or price-reduced food for eight out of every ten students. Federal food program funds help to offset the cost of the student meals, but all expenses are not covered. In the 1981-82 school year, for example, the district had to supplement federal food program revenues by taking $48,000 from the M and O budget. A M and O subsidy of greater magnitude is expected for the current year. Other school districts in Arizona have reduced their food programs in order to avoid subsidizing them with scarce M and O revenues. Indian Oasis does not have that option because it serves students from a poverty impacted area.

A continuing problem for Indian Oasis is that poverty conditions on the reservation—particularly deteriorated home environments, alcoholism, infectious disease, and teenage pregnancy—cause a high student absenteeism rate. Like most states, Arizona's state assistance allocation formula provides revenue based on the number of students enrolled in school. Under the formula, a moderate rate of absenteeism does not reduce the amount of state assistance. Because the allowable absenteeism rate is based on the the average for the state as a whole, however, it does not take into account the effect that the Papago reservations poverty conditions have on student attendance. Not surprisingly, the Indian Oasis absenteeism rate exceeds significantly the allowable maximum, with the result that the Papago school district loses annually approximately $31,000 in state assistance.

After Indian Oasis sustains the $31,000 absenteeism loss it still has the same actual costs per student. Thus, the lost revenue must be made up by cutting items—including student counselling—in the M and O budget. The irony here is that if the district had additional revenues it could, by expanding student counselling services, undertake to reduce the absenteeism rate. The administrators and teachers at Indian Oasis stress that there is an immense, and unmet, need for student counselling at all grade levels. That need is reflected in a comparision of drop-out rates for Indian Oasis students with drop-out rates for students attending other unified districts (districts which furnish elementary and secondary education) in Pima County. According to the Annual Report of the Superintendent of Public Instruction, 10.60 percent of Indian Oasis students dropped out in the 81-82 school year while the average for all other unified districts in Pima County for the same period was only 3.17 percent. The 81-82 drop-out rate at the Indian Oasis high school was an extraordinary 23.46 percent.

Most of the students attending Indian Oasis have lived on the reservation all their lives. As a result, they have had limited exposure to the dominant language and culture of America. Significant numbers of the students have limited English language proficiency because the Papago language, or a combination of Papago and English colloquially known as "Indian English," is the language most relied upon for communication in their homes and villages. Special measures are required to enable these students to progress in the basic subjects of English and math at the same rate as other students. For example, there is an urgent need to develop a test instrument for identifying Papago language dominant students in the early grades so that special language arts programming can be targeted at them. No such instrument presently exists, and the cost of developing one is presently beyond the means of Indian Oasis.

In virtually every Indian Oasis classroom the students possess widely different English language literacy skills. It is, therefore, impossible to apply a single curriculum or teaching method. Under ideal circumstances, Indian Oasis would institute a wide range of measures to deal with the varying skill levels of its students, including special curricula and materials, teacher in-service training, and home-based academic counselling. Indian Oasis has faithfully sought to implement these and other adaptive measures but because of limited finances, the district has been unable to address fully the special language and cultural requirements of its students. The lack of comprehensive special language programming correlates with strikingly low student performance on standardized tests in the basic subjects of English grammar,

English reading, and math, as shown in Exhibit D, "Comparison of Indian Oasis-Baboquivari Student Performance on Standardized Tests in the Basic Subjects With Other Rural Southern Arizona School Districts."

4. PROBLEMS UNDER STATE LAW

Three years ago the State of Arizona altered significantly its school finance system in an attempt to equalize per student M and O expenditures for all school districts in the state. The new school finance law established for each school district a guaranteed per student funding level called the "District Support Level" (hereafter DSL). The DSL is the statutory funding level for all categories of the M and O budget except transportation; the transportation funding level is calculated separately and is not subject to equalization. The key to the state's new school finance law is that the DSL is guaranteed to each district regardless of its taxable wealth. Tax poor districts, so long as they levy a minimum tax called the qualifying levy, will receive enough state assistance to insure that their M and O revenues equal at least the DSL.

A school district's DSL is calculated in four steps. First, the actual student count is determined. (Indian Oasis loses $31,000 worth of students from the count because of the higher than average absenteeism rate.) Next, the student count is adjusted upwards by application of weighting factors which are intended to allow for higher costs in small schools, special education, and vocational education. The figure resulting from this adjustment is called the "weighted student count." (Indian Oasis does not benefit from the small school weighting factor.) Thirdly, the weighted student count is multiplied by a base per student funding level established annually by the legislature. For the 82-83 school year, the base per student level was $1,644; next year it is $1,710. In the final step, the product of the base multiplied by the weighted student count is increased by an additional weighting factor for school districts having teachers with more experience than the state average. This additional weighting factor is known as the "Teacher Experience Index" and is intended to provide for districts having experienced, and therefore more highly paid, teachers. Indian Oasis does not benefit from the Teacher Experience Index because of its high rate of teacher turnover.

The Arizona school finance plan seeks to equalize per student school district M and O spending by identifying districts which spend in excess of the DSL, so-called "high-spending" districts, and imposing upon them an annually declining M and O expenditure limit. Indian Oasis and, I believe, all other heavily impacted Indian districts in Arizona have been identified as high spenders because they use available federal impact aid to meet extra cost factors in their operating environments. The idea behind the state law is that, over the five year period that began in 1980 and will end in 1985, the M and O expenditure limit for high spending districts—including the Indian districts—will gradually decline until it equals the DSL. At that point, non-transportation per student M and O expenditures will be the same for all districts in the state and the high spenders will have been equalized. The state plan also seeks to equalize "low spenders" (districts spending below the DLS) by incrementally increasing their state assistance to move them towards the DSL.

The state's plan to equalize M and O expenditures would not pose a serious problem for Indian Oasis if the DSL included allowances for the extra cost factors and special student needs on the Papago reservation. But the DSL fails to consider the hard reality of reservation public school operation. The amount of DSL is based on a 1979 empirical study by the Arizona Department of Education entitled "General Fund Cost Study, Arizona School Districts." The study sought to depict public school costs by compiling data from a sample of 28 Arizona school districts for the year 1977-78. Large urban districts and districts with a large tax base were, however, overrepresented in the study sample, with the result that the special considerations applicable to reservation public schools were masked. The only district with substantial Indian enrollment in the study sample was Window Rock Unified on the Navajo reservation. It is not surprising, therefore, that the formula for calculating the DSL falls far short of meeting the real needs of the Papago school. For example, there is no allowance for the isolation of Indian Oasis, and wholly inadequate allowance is made for the district's extra transportation costs; the DSL fails to consider that teacher housing, water systems, and similar items which are supplied by other sources off the reservation must be provided at the expense of Indian Oasis; the DSL does not take into account the conditions of extreme poverty that exist among the Papago students, nor does it provide adequately for the special language requirements of Papago youngsters.

The impact of these deficiencies in state law was painfully obvious in the last school year when Indian Oasis passed the half-way mark in Arizona's five year equalization plan. Exhibit F compares Indian Oasis teacher salaries for each of the five experience levels with other school districts in Pima County. At the entry teaching level (B.A. Minimum) the gap between the Indian Oasis salary and the middle salary of the county is $900 and the gap between Indian Oasis and the county's highest salary is a full $3,000. The disparity increases by an order of magnitude as teachers ascend the experience ladder. At the fifth experience level (M.A. Maximum) the county's high salary was $29,850 and its middle salary was $27,184. Indian Oasis was able to offer only $21,000. It is little wonder that the Papago school has great difficulty attracting qualified teachers and that its teacher turnover rate is among the highest in all of Arizona.

The disparity in teacher salaries shown in Exhibit F is the result of Arizona's M and O expenditure limitation which, because it is referenced to the DSL, simply does not allow for the extra cost factors and special student needs at Indian Oasis. After the Papago district pays its irreducible transportation and operation costs there is simply not enough revenue left within the M and O expenditure limitation to fund teachers on a level with the rest of Pima County. This situation will, incredibly, worsen in the coming school year. Last month, Indian Oasis received word from the Arizona Department of Education that its current M and O expenditure limitation of $2,712,749 will, because of the state's equalization formula, decrease in the 83-84 school year to $2,680,973. On the same day that this decline in spending capacity was reported, the Tucson newspaper reported that other Pima County school districts plan to increase their teacher salaries between 6 percent and 9 percent for the 83-84 school year.

5. THE M AND O LIMIT AND IMPACT AID

Arizona's M and O expenditure limitation applies to all M and O revenue sources, including federal impact aid. The effect of this aspect of state law has been to cause Indian Oasis, and many other heavily impacted Indian districts, to accumulate unspendable surpluses of M and O revenue because impact aid receipts, when added to state assistance and the local tax levy, have exceeded the M and O spending limit. For example, as shown in Exhibit B, for the school fiscal year ending June 30, 1983 the unspendable excess revenue at Indian Oasis will equal $258,169. Under normal circumstances the unspendable surplus would be even larger but, as I mentioned previously, Indian Oasis has requested delayed payment of most of its impact aid entitlement for the current year until after June 30, 1983.

The surplus M and O revenue is deposited with the Pima County Treasurer in the name of Indian Oasis. Under state law, it will be carried over to the next school fiscal year, which begins on July 1. In that fiscal year, the carryover must first be used to reduce the taxes that would otherwise be levied on Indian Oasis taxpayers. Since the amount of the carry-over exceeds the qualifying tax levy, the taxpayers will have a zero tax rate for M and O in the 83-84 tax year.

The amount of M and O carryover remaining after taxes are reduced to zero may, consistent with state law, only be spent for capital outlay after approval of the school district's electors is obtained in an override election. In years past, Indian Oasis has used available M and O carryover to fund much needed capital improvements and it will continue to do so. The problem is, however, that the surplus revenues are urgently needed in the M and O budget to make competitive Indian Oasis teacher salaries and to assist in offsetting extra cost factors on the reservation. Last summer Indian Oasis, together with a number of other heavily impacted Indian school districts, filed a federal court lawsuit seeking to void the M and O expenditure limitation as it applies to impact aid. A decision in that case is not expected for at least several months. Unless the lawsuit is finally resolved in favor of the plaintiffs, Indian Oasis will continue to receive significant amounts of impact aid which, despite the demonstrated need, cannot be spent for M and O.

6. EQUALIZATION OF IMPACT AID

In the spring of 1982, Arizona applied to the U.S. Department of Education for permission, for the 82-83 school year, to reduce its state assistance payments to school districts in proportion to the amount of impact aid they receive. The process of state aid reduction is popularly known as "equalization of impact aid" and is governed by a complex regulation setting out two tests—the "wealth neutrality test" and the "disparity test"—to determine whether a state qualifies. The tests purport to measure the extent to which differences in taxable wealth among school districts have been neutralized by a state's school finance plan. Federal permission to equal-

ize impact aid is given on an annual basis; for each year a state wishes to equalize impact aid it must file a separate application.

In March of this year, over the vociferous objections of Arizona's Indian and military districts, the U.S. Department of Education gave final approval to Arizona's request to equalize impact aid for the 82-83 school year. Earlier this month Indian Oasis, together with most other heavily impacted Indian districts in Arizona, filed an administrative appeal of the federal approval. As the appeal was being prepared, the Indian districts received notice of the state's application to equalize impact aid in the 83-84 school year. That application is now the subject of a second appeal. The effect of Arizona's application to equalize impact aid in the 83-84 school year is depicted in Exhibit E, "Indian Oasis-Baboquivari Maintenance and Operation Revenues for Fiscal Year July 1, 1983 through June 30, 1984 Before and After Equalization of Impact Aid." Based on known 83-84 impact aid receipts of at least $1,488,928, Indian Oasis will lose $857,710 for M and O revenue (32 percent of its M and O expenditure limit) if Arizona's application is approved.

The Indian districts' core argument opposing equalization of impact aid is that Arizona's school finance plan does not provide adequately for the extra cost factors of Indian education and the special needs of students on Indian reservations. Much of the information I have presented today-including the data concerning inter-district disparities in teacher salaries-has been argued before the U.S. Department of Education, but to no avail. From the outset, the Department of Education has taken the position that, under the applicable law and regulations, it is not authorized to consider any factors other than the state's cold numbers concerning the wealth neutrality of Arizona's school finance plan. From the Department of Education's point of view, informaiton about the extra costs of Indian education, special Indian student needs, and disparities in instructional spending is simply irrelevant.

7. NEEDED CHANGES IN THE LAW

When Congress amended the impact aid law in 1974 to allow states to equalize impact aid, it stated that the regulation determining eligibility to equalize should make "allowances in its apportionment formula for the necessary variations in cost per unit of educational need." See, H.R. Rep. No. 93-805, 1974 U.S. Code Cong. Adm. News 4129, citing, "P.L. 874 and State Equalization Plans: The Problems of the Legislative prohibition of Section 5(d)(2)," (Committee Print at page 8, House of Representatives Committee on Education and Labor, 1974). Nine years later, as they seek to prevent Arizona from equalizing impact aid the state's Indian school districts are told by the federal decisionmaker that variations in cost and eduactional need, however significant they may be at the local level, are out of bounds.

Indian Oasis school district respectfully requests this Subcommittee to consider reaffirming the 1974 congressional intent by amending the law to make it clear that a state may equalize impact aid only if it has in effect a school finance plan which provides fully for the extra costs and special student needs of every district within its boundaries. Such an amendment is consistent with the 1981 report of the Commission on the Review of the Impact Aid Program which, after extensive study of the equalization process coupled with field hearings across the nation, went so far as to recommend that no impact aid received by a heavily impacted school district should be equalized. See, Recommendations, A Report on the Administration and Operation of Title I of Public Law 874, 81st Congress, Commission on the Review of the Federal Impact Aid Program (September 1, 1981).

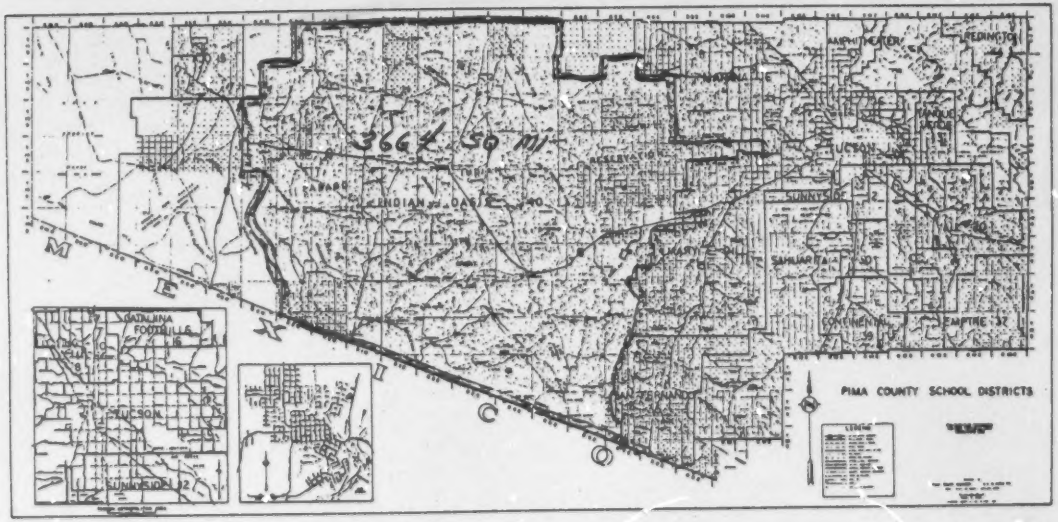
The Indian Oasis school district further requests that this Subcommittee consider amending the law to insure that the following amounts of impact aid are spendable at the school district level for current expenditures (M and O) without regard to expenditure limitations under any provisions of state law: (a) an amount representing the 25 percent add-on for students residing on Indian lands, (b) an amount representing the 50 percent add-on for special education students, (c) an amount equal to the revenue required for an impacted district to fund a local school district current expenditure limitation override to the maximum extent that any non-impacted district may fund such an override under applicable state law.

Finally, Indian Oasis requests that the applicable law be amended to give affected Indian tribal governments notice of a state's application to equalize impact aid and standing to participate in all administrative and judicial processes relating to such application on an equal basis with affected school districts.

On behalf of the Indian Oasis school community, I thank the members of the Subcommittee for their attention to the problems presented here.

Exhibit "A"

MAP SHOWING BOUNDARY OF INDIAN OASIS-BABOQUIVARI
UNIFIED DISTRICT NO. 40
(JULY, 1982)



Indian Oasis-Baboquivari Unified District No. 40 includes all of the main O'odham Reservation that is in Pima County. The District serves approximately 700 elementary students and 250 high school students. 97% of the students are O'odham.

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Exhibit B: Indian Oasis - Baboquivari, Available Maintenance and Operation Revenues For Fiscal Year July 1, 1982 - June 30, 1983

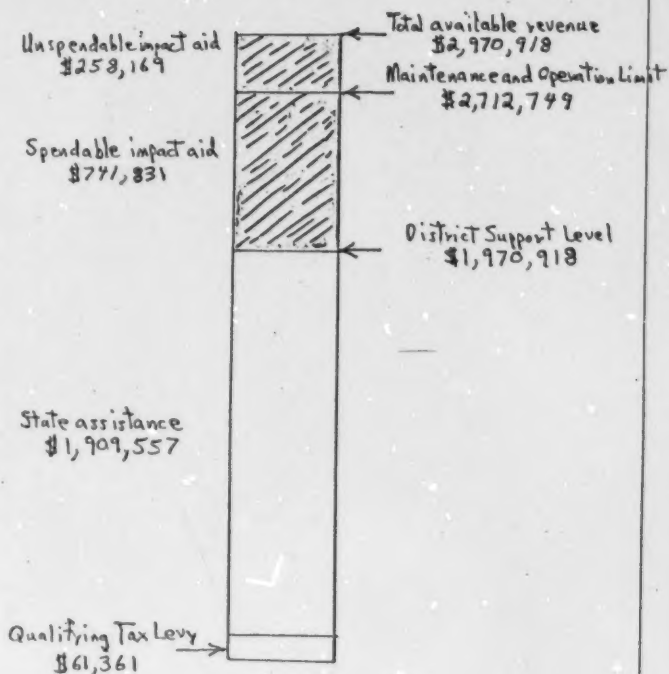

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Exhibit C

Table Comparing Percentages of Total Maintenance and Operation Expenditures for Combined Arizona School Districts with Indian Oasis-Baboquivari*

	Average of Combined Arizona School Districts for Fiscal Years 79-80, 80-81, 81-82.	Indian Oasis-Baboquivari for July 1, 1982 through December 31, 1982.
Administration	3.85%	6.60%
Regular Instruction	59.40%	44.27%
Special Education	11.41%	9.28%
Operation	20.52%	28.80%
Transportation	4.81%	11.05%
TOTAL	100.00%	100.00%

*Data for the State as a whole were taken from the Annual Report of the Superintendent of Public Instruction for fiscal years 79-80, 80-81 and 81-82. The Indian Oasis-Baboquivari figures are based on actual expenditures posted to the District's general ledger for the period ending December 31, 1982.

For the State as a whole, administrative expenses of special education are included in the category "special education." For Indian Oasis-Baboquivari, however, special education administrative expenses are included in the category "administration." In both columns, "instruction" includes "instruction support" as that term is defined in Uniform System of Financial Records, Section IV (Arizona Department of Education, 1980).

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Exhibit D

COMPARISON OF INDIAN OASIS BABOQUIVARI STUDENT PERFORMANCE ON STANDARDIZED TESTS IN THE BASIC SUBJECTS WITH OTHER RURAL SOUTHERN ARIZONA SCHOOL DISTRICTS (AZ. DAILY STAR, JULY 15, 1982).

Southern Arizona districts

3rd grade

	Grammar score	Reading score	Math score		Grammar score	Reading score	Math score
Ajo	4.1	4.0	4.0	Oracle	3.8	3.9	3.7
Benson	4.0	3.7	3.7	Palominas	4.3	3.9	4.0
Bisbee	3.9	3.8	3.9	Patagonia	4.1	4.0	3.9
Casa Grande	3.8	3.7	3.7	Safford	4.1	3.9	3.9
Coolidge	3.1	3.5	3.4	San Fernando	4.9	3.6	4.5
Mary Dill	5.0	4.5	4.8	San Manuel	3.7	3.7	3.8
Douglas	3.3	3.1	3.5	Sierra Vista	4.3	4.1	4.3
Eloy	3.2	3.3	3.5	Sonoita	4.8	4.4	4.3
Florence	3.6	3.3	3.5	Thatcher	4.3	4.0	3.6
Fort Huachuca	4.0	3.9	3.8	Tombstone	4.4	4.0	4.0
* Indian Oasis	2.5	2.3	2.5	Willcox	4.5	4.0	4.1
Nogales	3.5	3.1	3.9	Mt. Lemmon	3.4	3.1	3.4

6th grade

	Grammar score	Reading score	Math score		Grammar score	Reading score	Math score
Ajo	6.3	6.5	6.3	Oracle	7.0	7.0	7.0
Benson	7.1	7.0	7.1	Palominas	9.0	8.6	7.7
Bisbee	8.0	7.6	7.4	Patagonia	6.4	6.1	6.3
Casa Grande	7.0	6.8	7.4	Safford	8.3	7.8	7.9
Coolidge	6.6	6.6	6.2	San Fernando	5.8	5.0	7.3
Mary Dill	6.6	7.3	6.8	San Manuel	7.1	6.4	6.6
Douglas	6.3	5.7	6.4	Sierra Vista	8.8	8.1	7.9
Eloy	5.3	5.6	6.5	Sonoita	6.5	7.2	6.4
Florence	6.9	6.6	7.1	Thatcher	7.6	7.4	6.9
Fort Huachuca	7.9	7.6	7.6	Tombstone	7.3	7.3	7.2
* Indian Oasis	4.8	5.1	5.9	Willcox	7.9	7.4	7.5
Nogales	5.9	5.6	6.7	Mt. Lemmon	9.8	10.0	8.0

8th grade

	Grammar score	Reading score	Math score		Grammar score	Reading score	Math score
Ajo	9.1	8.8	8.6	Nogales	8.0	8.0	9.2
Benson	9.5	10.0	9.6	Oracle	9.1	8.8	8.9
Bisbee	9.7	10.1	10.0	Palominas	12.9	11.1	11.1
Casa Grande	8.8	8.8	9.0	Patagonia	10.3	10.4	10.0
Coolidge	7.1	8.0	8.5	Safford	8.8	8.9	9.6
Mary Dill	9.5	9.6	9.7	San Manuel	9.0	8.3	8.6
Douglas	8.7	8.3	9.0	Sierra Vista	10.9	10.4	11.1
Eloy	8.7	8.8	8.5	Sonoita	10.9	12.1	10.0
Florence	9.6	8.6	9.0	Thatcher	9.5	9.7	10.0
Fort Huachuca	10.5	10.5	10.0	Tombstone	9.5	9.5	9.0
* Indian Oasis	3.4	4.2	6.5	Willcox	10.5	9.6	10.2

12th grade

	Grammar score	Reading score	Math score		Grammar score	Reading score	Math score
Ajo	12.7	11.9	12.9	Nogales	11.8	11.0	10.6
Benson	12.5	12.9	12.9	Patagonia	12.9	12.9	12.9
Bisbee	12.9	12.9	11.8	Safford	12.2	12.9	12.9
Casa Grande	12.7	12.9	12.9	San Manuel	11.3	12.8	10.7
Coolidge	10.4	11.2	9.3	Sierra Vista	12.9	12.9	12.9
Douglas	12.9	12.9	12.9	Thatcher	11.9	12.9	11.9
Florence	10.4	11.5	11.1	Tombstone	12.2	12.9	12.9
* Indian Oasis	8.3	8.4	8.9	Willcox	12.9	12.9	12.9

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Exhibit E : Indian Oasis - Baboquivari Maintenance and Operation Revenues for Fiscal Year July 1, 1983 through June 30, 1984 Before And After Equalization of Impact Aid

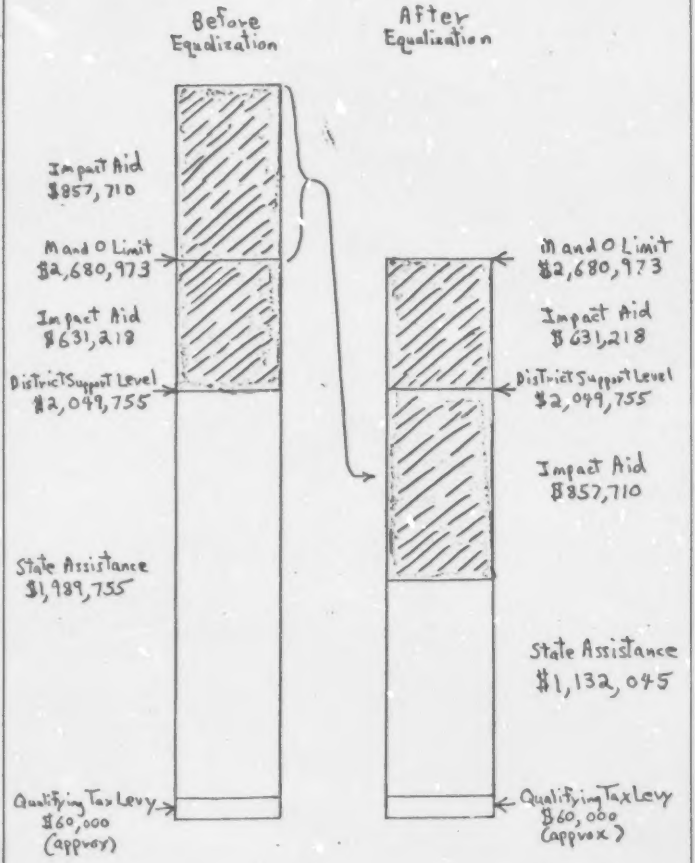

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Exhibit F

COMPARISON OF INDIAN OASIS-BABOQUIVARI 82-83 TEACHER SALARY SCHEDULE WITH OTHER PIMA COUNTY SCHOOL DISTRICTS

(Prepared April 18, 1983, Indian Oasis-Baboquivari Administration)

	B.A. Minimum	M.A. Minimum	M.A. Step 5	M.A. Step 10	M.A. Maximum
County's highest annual salary	$16,000 Catalina Foothills	$17,850 Continental	$20,250 Continental	$23,580 Tucson Unified	$29,850 Continental
County's middle annual salary	$13,900 Amphi.	$15,830 Sahuarita	$18,166 Mary Dill	$20,867 Mary Dill	$27,184 Catalina Foothills
County's lowest annual salary	$13,000 Indian Oasis	$14,600 Indian Oasis	$16,870 Tanque Verde	$18,100 Indian Oasis	$21,000 Indian Oasis

Note: All salary figures exclude fringe benefits. Fringe Benefits are roughly equivalent for all districts in Pima County. The Indian Oasis M.A. Step 5 salary is $17,000 or $130 more than the county low for that level.

STATEMENT OF MARK ULMER, ESQ., INDIAN OASIS-BABOQUIVARI UNIFIED SCHOOL DISTRICT NO. 40, SELLS, ARIZ.

Mr. ULMER. Representative Kildee, I want to thank you for the opportunity to speak this morning. By way of preliminary matters, do you have in front of you the written testimony that I prepared?

Mr. KILDEE. Yes, we have your full testimony.

Mr. ULMER. I will be referring to exhibits B and E in that testimony, and I would mention for others in the room that copies of those exhibits are on the chair immediately behind me.

I also want to thank you for your considerate remarks regarding the postponement of the hearing. I want you to know it caused me no inconvenience whatsoever to spend an extra night in this lovely city. However, at some point during the night someone found a better use for my coat. That is why I am appearing before you today without a coat.

Mr. KILDEE. We regret that. The city, with all of its loveliness, has some of the harshness of the human condition also. I certainly can understand your appearing without a coat.

Mr. ULMER. Perhaps they have put it to a more useful purpose, at least in the wintertime.

As you mentioned, I am the attorney for the Indian Oasis-Baboquivari Public School which serves the main Papago Indian Reservation in southern Arizona. My testimony is going to first briefly address the need for impact aid generally. Thereafter I want to

talk about some special problems that have arisen under recent changes in the Arizona school finance plan.

By way of background, my school district encompasses all of the main Papago Indian Reservation in Arizona, and I have included a map as exhibit A. The district is one of the most extensive in Arizona. It covers almost 3,600 square miles of sparsely settled Sonoran Desert earth country. It serves 944 students in grades K through 12. Ninety percent of the students are Papago Indians. All schools are located in Sells, which is 60 miles from Tucson, the nearest urban center.

I first want to describe briefly the limited extent of our tax base. Like most other heavily impacted Indian districts, we are able to raise only a tiny fraction of our operating revenues through a property tax levy, because virtually all of the land is tax-exempt Federal Indian trust land. We have only two significant taxpayers, El Paso Natural Gas, and the Mountain Bell Phone System.

The amount of the taxable wealth per student at Indian Oasis is some $1,879. With that tax base, if we levy via the standard rate under Arizona law, we will levy the grand total of $56 per student per year for operating purposes. Obviously then the district depends totally on impact aid and State assistance to keep its doors open.

Exhibit B will show you the extent of dependence on the Federal impact aid program. It is a depiction of the maintenance and operation budget for the period beginning July 1, 1982, and ending in a few days on June 30. I should mention that under State law the maintenance and operation budget is the financial backbone of all public schools in Arizona.

It is in the terms of the impact aid statute, the budget for current expenditures. It is the sole source of funds for basic operations, classroom, teachers, administrators, counselors, maintenance workers, bus drivers, fuel, utilities, and so on.

As you can see, almost $1 million, that is, 34 percent of the total M&O revenue, is composed of Federal impact aid. In reality, the figure should be larger. However, for reasons that I will get to later on, we have asked the Department of Education to postpone payment of impact aid to our district until after June 30, the close of our fiscal year.

I want to emphasize to the subcommittee the fact that Indian Oasis, like most heavily impacted Indian districts, operates in a high-cost environment. Conditions on the Papago Reservation cause Indian Oasis to have significantly higher operating expenses than the average public school in Arizona. Nevertheless the State legislature has established funding formulas for the allocation of State assistance on the basis of average, and in many cases even less than average expenditure levels.

The result is that if we had to rely on the State formulas, particularly in the areas of operation and transportation, our revenues would be utterly inadequate. For example, isolation of our student population is a major extra cost factor. Many of the students live in small isolated villages scattered across the expanse of the reservation.

To serve these students, we operate 27 bus routes. Many of the routes include distances greatly in excess of the State average.

Nevertheless, Arizona's formula for allocating transportation assistance fails to provide fully for the uncommon busing distances we encounter, and it fails to adequately consider that the buses frequently operate on rough roads, which leads to higher maintenance costs, and incidentally, higher fuel costs.

By way of example, the Indian Oasis actual transportation outlay for the next school year will be more than $350,000, but the State formula will give us only $275,000. I should mention that Arizona continues to underpay transportation costs, despite its own transportation cost study, a copy of which I have brought with me here. This is a 1981 study showing that the actual per vehicle mile cost in a rural isolated district like Indian Oasis is at least $1.59. We believe it is more.

Yet, under prevailing State law, we receive only $1.22 per vehicle mile, and we receive nothing for after-school activity runs, which are of course an essential part of the total school program., and which this school district must provide, because, again, the students live in widely dispersed areas, and because of the high level of poverty on the reservation, most families do not have private transportation.

Still another extra cost factor is the extreme isolation from major labor and material markets. As I mentioned, we are a little over 60 miles from Tucson. By way of example, many of our shool vehicles, buses and other vehicles are inefficient and old, subject to repeated breakdowns. When that happens, if a part is required, that is a 120-mile round trip to get the part. Frequently the breakdown is so serious that our vehicle maintenance staff cannot handle the problem, so the vehicle has to be towed to Tucson for repair.

Other extra cost factors, things like the district is required to operate a water well, a pump, and a water storage system for a portion of its high school, because there are no municipal services being provided in the Indian lands.

A particularly noteworthy example: The district has to provide homebound special education services. Those are services that, because of the nature of the problem, are provided in-house, in the child's home. This incident involves a severely retarded child, who lives 80 miles west of Sells. Our special education teacher uses up a full day out of every week to provide that homebound service. Yet the State's formula for allocating special education assistance does not contain any allowance for that kind of extra cost factor.

Again, as has been previously mentioned, our district must operate teacher housing units, because none are available commercially on the reservation.

To speak briefly of some of the special student needs on the Papago Reservation, it is no secret to any of us that Papago suffers from the effects of extremely high levels of poverty. Fully 95 percent of the student population at my school meet the poverty criteria for chapter 1 of ECIA, the old title I program.

These students confront on a daily basis poverty conditions of staggering proportions, severely deteriorated home environment, unemployment rates in excess of 50 percent, extraordinarily high rates of diabetes, infectious diseases, alcoholism, substance abuse, and teenage pregnancy.

Again, our school district must institute special and costly measures in order to operate under these conditions. On the simple level of nutrition, the Papago District has to provide free or reduced food for 8 out of 10 students. Of course, some of the expense is compensated for through the Federal food programs, but not all. What is not compensated must be provided through a subsidy from the basic maintenance and operation budget.

Two years ago that subsidy totaled $48,000, and when our books close, we have every indication that it will be even greater at the end of the current school year.

Out of the extreme poverty conditions grow an immense and unmet need for student counseling at all grade levels. The need is reflected in a comparison of dropout rates for Indian Oasis students with dropout rates for students attending other unified districts in Pima County. A unified district, of course, is one that joins elementary and high school services under a single administrative umbrella; 10.6 percent of the Indian Oasis students dropped out in the 1981-82 year. For the county alone, only 3.17 percent dropped out. At the high school, the figure is extraordinary. The dropout figure at the Indian Oasis High School last year was 23.46 percent.

Most of the students attending the Papago School District have lived on the reservation all their lives, with the result, of course, that they have had limited exposure to the language and culture of the dominant society. Significant numbers of the students have limited English language proficiency, because of the Papago language, or a variant of it, colloquially known as Indian English, is the language most relied upon for communication in their homes and in their home villages.

Again, special and costly measures are required to enable these students to progress in the basic subjects of English reading, English writing and math at the same rate as other students in the State of Arizona. My school district has faithfully sought to implement language adaptive measures in its programing, but because again of limited finances, we have been unable to address fully the need.

The lack of comprehensive special language programing correlates with strikingly low student performance on standardized tests in the basic subjects, and I refer the subcommittee to exhibit D for further information the test score results.

In the remainder of my discussion, I would like to discuss some serious problems that arose under 1979 changes in the Arizona School Finance Plan. Starting effective in 1980, the State of Arizona altered significantly its school finance system in an attempt to equalize per student maintenance and operation expenditures across the State.

I need to make it clear that the laws had a second and I believe overriding purpose, which was to reduce school district taxes not only for residential taxpayers, but also for corporate taxpayers.

The vehicle for tax reduction was a strict and absolute expenditure limitation, again calculated on a per student basis. The expenditure limitation applies to maintenance and operation expenditures. The idea is, of course, if the State can limit what school districts spend, they will indirectly limit with school districts tax.

The new school finance law in Arizona established for each school district a guaranteed per student funding level for maintenance and operation called the district support level. I will just refer to that as the DSL, the district support level is the statutory funding level for all categories of the M&O budget, except transportation. Again, the DSL is the engine of expenditure equalization, but it is notable that transportation expenditures are outside of that equalization process, and that will become significant later on.

The Arizona School Finance Plan seeks to equalize per student school district spending by identifying districts which spend in excess of the DSL. These districts are called high spending districts. For the high spending districts, they have had imposed upon them an annual declining maintenance and operation expenditure limit. It is declining annually over a period of 5 years, so that at the end of the 5-year period, it will be the same for all school districts in the State on a per student basis, of course.

Indian Oasis, and I believe all other heavily impacted school districts in Arizona, were identified as high spending districts, which comes as no surprise to the school districts themselves, who experience on a daily basis the extra cost factors and the special student needs in their operating environment.

The State's forced reduction in M&O expenditures wouldn't pose a serious problem for Indian Oasis if the DSL included allowances for the extra cost factors and the special student needs. But as I have implied previously, the DSL at every turn is referenced not to real conditions but to average conditions in the State. In other words, the DSL fails to consider the hard realities of reservation public school finance.

The amount of the district support level is based on a 1979 empirical cost study that was conducted by the Arizona Department of Education. It is called the general fund cost study. In that study, large urban districts, and districts with a large tax base, were overrepresented in the study sample, so that the special considerations in Indian country were never factored into the base sample that was used to determine the cost requirements of the public school system in Arizona.

The only district with substantial Indian enrollment in the study was Window Rock Unified. There was no effort beyond that to address the special conditions of Indian reservation education, so it is not surprising at all that the formula for calculating the DSL falls far short of meeting the actual needs of Indian Oasis.

For example, there is no consideration for the teacher housing requirement. There is no consideration for the water system requirement. As I mentioned, transportation costs are inadequately provided for. There is no isolation factor. There is no factor allowing for the conditions of poverty, nor is there any factor allowing adequately for the special language programing requirements that the district faces.

The impact of these deficiencies in State law was painfully obvious last year, when we passed the halfway mark in the State's 5-year equalization plan, and I should mention that the situation I am about to describe incredibly will worsen next year, because we still have another year of declining M&O expenditure limitation.

I call your attention to exhibit F, which compares Indian Oasis teacher salaries for each of five experience levels in the State with other school districts in Pima County. At the entry level of teachers, that is, where you simply have a B.A. degree with no experience, the gap between Indian Oasis and the middle salary of the county is $900.

The gap between Indian Oasis and the county's higher salary is $3,000. That is at the entry level. The disparity increases by an order of magnitude as you go up the salary schedule. At the fifth experience level, that is, master of arts with the maximum experience in the classroom,the county's high salary was $29,850, the middle salary was $27,000.

All Indian Oasis can afford is $21,000. With those conditions, we have no hope of reversing a pattern of teacher turnover that has amounted to one of the highest teacher turnover rates in Arizona. We have no hope of attracting qualified teachers on the same basis as other school districts in the State.

Now I want to get into the specific provisions of Arizona law that have led to these circumstances. The unique aspect of the maintenance and operation expenditure limitation is that it applies also to the Federal impact aid. The effect of this aspect of State law has been to cause Indian Oasis and most other Indian districts around the State to accumulate unspendable surpluses of M&O revenue, because when the impact aid is received, and it is added to the meager tax resources and the State assistance which has to be paid under the Constitution, we exceed the maintenance and operation expenditure limit.

As shown in exhibit B, the excess was $258,000. In reality it would have been greater than that if we had not requested a delay in payment. In reality it would have been about $1.6 million.

What happens to the unspendable maintenance and operation revenue? Under State law it has to be carried over to the next fiscal year, which begins for us on July 1. In that fiscal year, State law requires that before the carryover can be used for any other purpose, it must first be applied to reduce the property taxes that would otherwise be paid by the district's taxpayers, and those taxpayers again are El Paso Natural Gas and the Mountain Bell Phone System.

The result of that carryover of impact aid under State law has been to reduce to zero the M&O tax rate that El Paso and Mountain Bell would otherwise have had to pay.

The Indian districts last year filed a Federal court lawsuit challenging the maintenance and operation expenditure as it applies to impact aid. The basic theory of the lawsuit is that the impact aid is being appropriated for special Federal purposes, and that State law is violating those purposes.

A key issue in the case concerns the 25-percent Indian add-on and the 50-percent handicapped add-on. Those revenues clearly intended to cover the extra cost factors have been rendered unspendable by the State law. We don't expect a decision in that case in the near future to relieve our problems. It has been complicated by procedural motions that I won't go into.

The second problem under State law has been previously referred to in the statement of the Montana Indian Impact Schools

Association and its equalization of impact aid. I would refer you to exhibit E for a pictorial description of what equalization of impact aid means. The impact aid is shown in yellow in the diagram.

In March of this year, over the vociferous objections of Arizona's Indian and, I might add, military districts, the U.S. Department of Education gave final approval to Arizona's request to equalize impact aid for the 1982-83 school year. That is our year that ends in a few days. Earlier this month Indian Oasis, together with virtually all of the other Indian districts in the State, filed an administrative appeal, the first step in appealing that approval process.

Ironically, as the appeal was being prepared, the Indian districts received another notice, that Arizona is seeking to equalize impact aid in the coming school year as well. That second application will be the subject of a second appeal.

The effect of Arizona's application to equalize impact aid in the 1983-84 school year, as shown in exhibit E, will mean a net revenue loss of $857,710. All of that is impact aid intended to meet the special conditions that I have previously described.

Without going into detail, the appeal is quite complicated, but the core of it is simply this. We are maintaining that Arizona's school finance plan does not provide adequately for the extra cost factors and special student needs, that the DSL, as it is referenced to average spenditure levels, is essentially slow strangulation for the Indian districts in Arizona.

Much of the information that I have presented to the subcommittee this morning has also been argued before the Department of Education formally in their formal process. It has been represented in the form of affidavits and written arguments, but to no avail.

From the outset, the Department of Education has taken the position that under the applicable law, the Department is not authorized to consider any factors other than the cold numbers that the State has submitted in support of its contention that State assistance has been equalized. I have some thoughts for the subcommittee regarding changes in the impact aid law that would strike a balance with the State of Arizona on some of these issues. First and foremost, I want to underscore what the Montana association mentioned. I think the needs are so great and so clear that there should be a total prohibition on equalizing impact aid that is received by heavily impacted school districts.

Mr. ULMER. If that's not possible, the law should be amended to make it clear that a State may equalize impact aid only if it has adopted a school finance plan which provides fully for the extra cost factors and the special needs of every school district in the State, Indian and non-Indian, urban and rural.

I don't have to point out to the subcommittee that an amendment of that type, given the facts that I have described, is entirely consistent with the special relationship that the Congress has to the Indian people.

The second prong of my suggestion amendments suggests the expenditure limitation. I respectfully ask the subcommittee to consider amending the law to insure that certain components of impact aid are spendable at the school district level without regard to expenditure limitations under any provisions of State law and those components are as follows:

First, the 25 percent add-on for Indian students. That is only logical. The money is being appropriated for extra cost at the Federal level. Extra costs exist at the local level. The money should be spendable.

Second, the 50-percent handicapped add-on should be similarly exempted from the expenditure limitation and, finally, concerning an aspect of an Arizona law called the M&O budget override option, which allows each district in the State through a local election to override its expenditure limit by 10 percent, which Indian Oasis has constantly done, and it has proved inadequate to correct the extra cost deficiencies.

We would ask the subcommittee to guarantee that Indian Oasis and all Indian districts would have impact aid revenues sufficient to fund and override on the same basis as is available to any other school district in the State.

Finally, the school district requests that the applicable law be amended to give notice to Indian tribal governments of a State's application to equalize impact aid. After all, a portion of it is, in a sense, their money. They have a kind of quasi-property interest in the 25-percent add-on given the special tribal input requirements of the statute.

At this point I would like to add to my written submittal. I have been authorized by the director of the tribe's Papago education department to inform the subcommittee that the Papago Tribe is deeply concerned about the issues that I have presented today. They are concerned not only about the inadequate funding but also about the effect that the maintenance and operation expenditure limitation and equalization will have on those special policies underlying the impact aid program. The Papago Tribe sees itself as being in partnership with the public schools because of the 1978 changes in the law.

Now, the viability of that partnership is severely eroded if the school district does not have sufficient operating revenues. The school district cannot provide for meaningful input. The school district cannot adapt its educational programing to conform to tribal policies unless it has adequate revenues to do so.

The house is burning down. There are simply no resources available to accommodate the tribe's legitimate concerns about what is happening at the school district level.

I thank the subcommittee.

Mr. KILDEE. Thank you very much, Mr. Ulmer, for your testimony and for your very specific suggestions on the possible changes in the law.

Our next witness is Dr. Thomas Glass, superintendent of Window Rock Public School District. I had the privilege of being in Window Rock a couple of years ago and I hope to be out in Indian districts soon again.

Mr. ULMER. Come to Papago after the summer.

Mr. KILDEE. I already said I wanted to come out there. I know it is warm out there.

STATEMENT OF DR. THOMAS GLASS, SUPERINTENDENT OF SCHOOLS, WINDOW ROCK UNIFIED DISTRICT NO. 8, WINDOW ROCK, ARIZ.

Mr. GLASS. The elevation is quite high, at 7,000 feet, and there is an awful lot of snow and mud in the wintertime.

My name is Thomas Glass, superintendent of schools, Window Rock Unified District No. 8.

To help illustrate the need for the Federal impact aid program, I would like to briefly describe my school district and students. The Window Rock School District is a public school district with an enrollment of some 2,800 students. The district encompasses 390 square miles, all within the Navajo Reservation and northeastern Arizona. Over 99 percent of the land is tax exempt due to its status as Federal land held in trust for the Navajo people. Essentially, the only taxpayers are the utility companies.

Over 95 percent of my students are native Americans. Over 60 percent come from multilingual home environments. Over 60 percent of them qualify for free or reduced lunches under the national school lunch program. In a recent survey, 30 percent of my parents were identified as having less than a third grade education and 30 percent had annual family incomes under $5,000.

For 1982-83, the district had a basic operating budget of $8.2 million, of which 30 percent was impact aid. We are a super impact aid district under Federal criteria, and of course this criteria identifies any district as a super district that has more than 20 percent of its students eligible for impact aid. And more than 98 percent of our students are eligible as are the other 28,000 Navajo students who attend public schools on the Navajo Reservation.

Nearly all of our students are in the aid category, which means they qualify for full funding depending on the appropriations of Congress. I might note that most of the publicity regarding impact aid during the past 3 years has been related to B students, particularly those from military connected families.

We recognize the concerns of schools serving such students, but for school districts such as Window Rock, located on Indian reservations, impact aid is an absolutely essential source of revenue. There are only one or two public school districts in the entire country that are located on Indian reservations and have a property tax base adequate to even begin to makeup for the difference if impact aid was lost.

The recent National Commission on Impact Aid established by Public Law 95-561 has clearly identified the drastic need for the impact aid program, particularly in respect to public schools on Indian lands. Unfortunately, due to a change in administrations as the Commission's report was being completed, it has been virtually ignored.

President Reagan has stated in his annual budget messages that there is a federal responsiblity connected with tax-exempt Federal land. The basic argument is, however, how much is that Federal responsibility worth.

We are aware that a number of possible changes have been proposed by Members of Congress regarding how impact aid funds should be allocated. Careful consideration of the allocation process

should be undertaken. All of us are aware of the need to reduce the Federal deficit and to create greater efficiency and the maximum fairness in the use of Federal funds.

We do assert that merely reducing Federal appropriations is not an equitable or fair solution. The few qualifications which I shall comment on, the 81-874 program works reasonably well. There is the bare minimum of paperwork involved and the application process is very simple. However, there are questions on the interpretations of the law and regulations.

One problem is that the program is not forward funded. My district adopted its 1983-84 budget on June 14 with a projection of some $3 million in revenue from impact aid, but that $3 million is nothing but a figure on a piece of paper until the fiscal year 1984 Federal budget is approved.

During the past school year, it was not until March when the final continuing resolution was passed by Congress that we had any assurance of how much impact aid funding we would receive for the 1982, 1983 school year. And once we adopt a budget we have to live with it. If Congress were to severely cut the program or the President were to veto the appropriations bill, there is no way we could raise other revenue to cover the loss of impact aid.

For any of us in the middle of the school year to lose 30 percent of our operating revenue would obviously be a disaster. I do not see how we could possibly keep our schools open under those circumstances.

The uncertainty, especially during the past 2 years of congressional action and Presidential reaction, has caused problems with the cash flow process. As of today, I still have not received our basic allocation check under impact aid for the 1982-83 school year and I was informed yesterday by the U.S. Department of Education that I will not receive that for some time.

Thanks to the changes created by Public Law 95-561, we did receive an advanced payment in December. We and many other districts have encountered financial difficulties, especially during the past 2 or 3 years due to delays in receiving impact aid funds. Unless a check arrived, probably yesterday, my district has already gone on interest-bearing warrants to meet the last payroll of the month and this has been caused because we did not have the impact aid money to balance the budget.

There are a number of changes in the law and regulations that we would like to suggest for your consideration. First we would like to note that to our knowledge, new regulations implementing the changes created by 95-561 have never been formally adopted. We believe that this has caused some confusion and creates a number of problems.

For example, equalization of impact aid, there is a Federal regulation setting forth criteria which the States must meet before obtaining federally approved and taking credit for or equalizing impact aid funds. These criteria were developed in 1975, 1976, and 1977. They have not been revised since Public Law 95-561 was passed in 1978. We believe that the existing regulations need to be carefully reviewed and revised.

During the time since the present regulations were adopted there have been a number of major court decisions regarding public

school finance and drastic changes in the methods of public school financing have occurred in many states such as Arizona.

A number of school districts in Arizona have been forced to devote the time and effort for filing a formal Federal administrative appeal regarding the approval of the U.S. Department of Education by the U.S. Department of Education of Arizona's plan to equalize impact aid. We have filed this appeal because we are firmly convinced that the State's plan does not again, this year, comply with Federal regulations.

We have defeated the State of Arizona, their applications during the last 2 years. They have not met regulations and they have been rejected 2 years running. This year they have received approval that we are contesting.

One, the application process. We would much prefer that impact aid be forward funding as are most other Federal education programs. That would enable us to have a more realistic information for use and planning and development of our budgets. If that is not possible, we suggest that the application process be modified.

At the present, the applications are due on January 30 for the school year in session. Nearly all schools take their official counts in October. If the applications were due in November, the Impact Aid Office would be able to process them sooner and provide payments in a more timely fashion; always providing that Congress and the administration were able to resolve their differences over the budget.

Three, special education increment. There is a 50 percent increment under impact aid for eligible students who are receiving the special aid services. Window Rock was one of the districts which sued the U.S. Department of Education several years ago to obtain this increment for Indian students.

We believe that the regulations relating to this increment should be carefully reviewed in order to insure that these funds are used specifically for programs to benefit the eligible special education students. This is not the situation in Arizona at this time.

Four, the 25 percent add-on for children presiding upon Indian lands. This add-on was provided by Congress in Public Law 95-561 in the recognition of the extraordinary cost of educational programs in rural and isolated reservations such as the Navajo. This 25 percent add-on was intended, we believe, to also enable schools to provide more effective programs to serve Indian students.

This appears to have been the basic intent behind the increased involvement of Indian parents and tribes mandated by 95-561. Unfortunately, there has been little real enforcement of the law in respect to this add-on and in states where 874 funds have been equalized, the add-on has meant little or nothing to the schools and thus to the Indian students.

Unfortunately, in some States such as Arizona, because of the current interpretations of the regulations allow for equalization, Indian populated school districts are being victimized by State school finance laws which do not take into account the special needs of Indian students and the extraordinary cost of operating reservation districts.

My district will lose approximately $1.5 million expendable income next year if our administrative appeal regarding Arizona's

application to equalize impact aid funds is unsuccessful. The State of Arizona has a school finance system which is not power equalized nor does it have other cost factors built in.

The Window Rock School District will, in 1985-86, receive the absolute average amounts for the entire State regardless of having to spend 11 percent of its budget on transportation, while other districts in the State spend less than one-half that amount.

Thus, in brief, we will be forced to pay transportation costs out of funds which should be spent for teachers and programs. Classes will increase drastically and many programs will be cut.

In fact, now halfway through that 5 year equalization process, my district next year will be operating with 31 fewer teaching positions due to this finance system of spending caps. In other words, we have eliminated 31 positions and a sizable number of programs already and more will come next year and the year after that.

My district has with impact aid over $1.5 million in revenue above the spending cap imposed by the State this year. In brief, I am not allowed to spend that $1.5 million for educational programs of Indian students. I believe the Congress intends for that money to be spent for the education of Indian students, especially the 25 percent add-on and the 50 percent add-on for handicapped students.

In 6 days we will be making a donation of $1½ million to our two taxpayers in the Window Rock School District, of about $1.4 million. It essentially will remove any tax bill they might have. So we will be making a gift to utility companies in about 6 days with impact aid funds.

Mr. KILDEE. That could qualify as corporate welfare, could it not?

Mr. GLASS. It very well might. We never have any objection from our utility companies regarding their tax rates. In fact, I am quite sure that they have been here to Washington to testify as to the continuation of impact aid programs. They support them very strongly.

I might also note that we have other carryover problems which have already been mentioned by Mr. Ulmer. I think of particular interest to this subcommittee would be that of the 50 percent add-on for special education. Personally, I believe there is a terrible inequity for children who have the most severe educational needs and it is really terrible that this money is carryover and cannot be spent.

I support Mr. Ulmer's suggestions regarding amendments to 81-874. I might also add that we are not asking that the 81-874 program be put into the categorical grant. We are asking that the current regulations are tightened up to insure that states do equalize and can provide equity as well as dollar equity.

Briefly put, a dollar of revenue in Phoenix only buys 75 cents' worth of goods and services in Window Rock, and that is about the bottom line.

I thank you for the opportunity to testify before this subcomittee and I certainly am open to any questions and I would welcome the opportunity to come again, and thank you very much.

[Prepared statement of Thomas Glass follows:]

PREPARED STATEMENT OF DR. THOMAS GLASS, SUPERINTENDENT, WINDOW ROCK SCHOOL DISTRICT

I. INTRODUCTION

The Window Rock School District, on behalf of Arizona public school districts located on Indian reservations in the State of Arizona,[1] offers this testimony in support of continued funding for the Federal Impact Aid Program (Public Law 81-874) in the fervent hope that the Committee will recognize the importance and utility of this program for the public school education of Indian students. Recent debate in Congress and in the media has implied that Impact Aid is a "boondoggle" for undeserving districts. At this time of budget-cutting and fiscal austerity in the public sector, it is important to understand that Impact Aid, far from being a boondoggle, constitutes a needed safety net for many school districts, especially those educating students on the Nation's Indian reservations. Public school districts with predominantly Indian enrollments stand to lose considerable funding for special programs for Indian students in any event, and major cuts in impact aid will seriously jeopardize the financial viability of these districts.

In addition to being needed, Impact Aid is a program uniquely tailored to the historical and political underpinnings of our society. We are at a time in our history when we are called upon to return to the federalism the founding fathers labored to create and to refresh the traditional themes of local control and responsibility. The Impact Aid program, especially as it relates to Indian students, offers a sound example of responsible federalism in action; it recognizes the historic and legal role of the National Government in dealing with Indian Tribes and Indian people while at the same time acknowledging the traditional preference in this country for state supported public schools. In addition, the Impact Aid program provides local school boards needed federal support with minimal bureaucratic interference and thereby enhances responsible local decisionmaking. If we are to be true to our historical and political lights, we can ill-afford to discount the importance of such a program of shared federal, state, and local responsibility.

The following discussion provides: (1) a brief history of the Impact Aid program, (2) a statement of the need for continued funding of the program in public schools in Indian reservations, and (3) the particular importance of preserving the congressional purpose behind Indian impact aid. The discussion is presented in hopes that the Committee will see fit to preserve and protect a valuable, indeed indispensable, program.

II. THE HISTORY AND PURPOSE OF FEDERAL IMPACT AID

In 1950, Congress established a program to aid school districts which were "impacted" by the presence of the federal government in their areas. An impacted school district initially was one which found itself educating an influx of federal dependents because of its proximity to federal military or civilian facilities. This influx increased school enrollment and the concomitant cost of providing educational programs. At the same time, the very federal presence that created the influx of students limited the local tax base available for raising the funds necessary to meet the increased cost, because the federal property acquired for the facility was exempt from local taxation. The 81st Congress recognized the inequities of this situation and sought to ameliorate the burden on impacted districts by providing federal monetary assistance in proportion to the lost tax base.

The congressional vehicle for this federal monetary assistance was Public Law 81-874, a measure designed to provide that ". . . the Federal Government shall pay to each local educational agency which furnishes education to children residing on Federal property an amount per child roughly equivalent to the amount per child which other property owners in comparable communities pay toward the cost of educating children." Senate Report No. 2458, August 29, 1950, 81 United States Code Cong. Service, p. 4014, 4015. In essence, Public Law 81-874 represents a federal per capita supplement to local districts to enable them adequately to educate federally connected students.

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[1] Ganado Elementary District No. 19, Ganado High School District No. 20, Puerco Elementary District No. 18, Window Rock Unified District, Kayenta Unified District, Tuba City Unified, Chinle Unified (Navajo Reservation); Baboquivari High School District, Indian Oasis Elementary District (Papago Reservation); Sacaton Elementary District (Gila River Reservation); Whiteriver Unified District (White Mountain Apache Reservation); Rice Elementary District (San Carlos Apache Reservation).

One of the key features of the impact aid program has always been Congress' willingness to allow local school districts to use the money it provides without generating new levels of state and federal bureaucracy to administer the program. The Impact Aid program has prospered under this wise decision. At the federal level, the program incurs few administrative costs and operates with a minimum of paperwork. At the state level, few precious state financial resources are consigned to the program's administration. At the local level, the funds a district receives may be treated within the normal budgeting process that school board members are familiar with, and a district is not forced to retain legions of specialists to oversee its decision making on use of the funds. In essence, the Impact Aid program assures that federal dollars are used to meet local needs without resort to instruction from as far as to what those local needs may be.

The absence of interposed bureaucracies administering the funds is particularly important to reservation public school districts. The trust status of reservation land and its corrolative tax exemption all but eliminates the tax base and bonding capacity of most of these districts, so the need for basic financial resources must be satisfied from funds coming from outside the district. The more administrative costs incurred prior to a district's receipt of the funds, the greater the erosion of the district's already precarious financial base. The Impact Aid funds districts receive are basically the funds Congress appropriates. This unique situation contrasts with many Indian education programs such as the Johnson-O'Malley program, because, unlike JOM, Impact Aid has not engendered the ever-increasing Bureau of Indian Affairs' cost of administration which continually reduces the efficacy of the JOM program to Indian students.

The one major "string" Congress has attached to Impact Aid for Indian students is designed to assure Indian parental and Indian tribal involvement in a district's use of Impact Aid funds. Under the provisions of Public Law 95–561, Congress increased the Impact Aid funding for Indian students in recognition of the higher costs incurred by Indian public school districts [2] and at the same time Congress required the districts to establish procedures to allow Indian parents and tribes a say in how the funds would be used to benefit Indian students. These procedures were designed to recognize the special relationship between Indian tribes and the United States. 20 U.S. § 240(b)3(F). This "string," far from being a burdensome federal intrusion, constituted a sound congressional policymaking decision which has enhanced the financial situation of public school districts while at the same time reinforcing the federal-Indian trust relationship and enhancing responsible local school government.

The development of the Impact Aid has been a bright spot in the otherwise rather dark history of Indian education. Although there have been other federal programs created to assist school districts in educating Indian children, only the federal Impact Aid program has provided a regular source of funding for operating and maintaining public schools on Indian reservations. The Impact Aid program recognizes both the fact that local people can and will make decisions consistent with quality education and that they will be sensitive to federal policy on Indian education. The program has thus assisted local governments and Congress in meeting their respective responsibilities. In fact, the Presidential Commission on Impact Aid recently identified the Impact Aid program as the only significant effort of the federal government to fulfill trust responsibility and treaty obligations related to education of Native American students in public schools.

III. THE NEED FOR CONTINUED FUNDING

Traditionally, two types of federally affected public school districts—those which educate Indian students and military dependents—have relied most heavily on Impact Aid. In many ways these districts face the same problems, but all too often the districts educating Indian students have been the poor relations in a program assumed by many both inside and outside Congress to be basically designed to assure our servicemen and servicewomen could count on quality educations for their children. At this time of re-examination of priorities, districts on Indian reservations know Congress' need for candid analysis of the essential needs to be met under the program. In the past Indian public school districts have relied on the political strength of other districts to keep Impact Aid alive, and in so doing they have run the risk that they would share in the consequences should Congress find weaknesses in the program as a whole.

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[2] H. Rept. 95–1137, May 11, 1978, 1978 U.S. Code Cong. & Admin. News, pp. 5082–83.

We cannot candidly represent to the Committee that Impact Aid is a perfect program, and many of the recent attacks on Impact Aid have pointed out problems. Both the Administration and members of Congress have questioned the various categories of students covered by the program. These questions usually focus on what are commonly referred to as "B Students", those students whose parents, while connected with the Federal Government, do not live on Federal land. The parents of "B Students" may thus contribute to a school district's tax base through ownership of taxable personal and real property.

The presence of these students may not necessarily affect a district in any greater degree than do students which are not federally-connected at all. Districts which receive Impact Aid for "B Students" seemingly receive a Federal windfall that is not tied to a corresponding local burden resulting from a lost tax base. While accepting that districts receiving "B Student" Impact Aid do need this money, it is understandable that cuts are being proposed in this category of Impact Aid.

Indian students living on reservation land, however, are defined as "A Students" under the Impact Aid program. Indian Students' residence on Indian land creates many of that military dependents living on bases create for military impacted public schools. At the same time, Indian reservations do not correspondingly benefit public school districts, as do military bases, by increasing the valuation of non-exempt land around the base. Furthermore, Indian public education and reservation life generate cost factors not faced by districts educating military dependents residing on military bases.

The tax base problems for districts educating military "A Students" and Indian students are striking. In stressing the priority for school districts serving military "A Students" in 1978, Congress noted:

"In general, such districts have substantially higher millage rates, lower expenditures per pupil and higher student/teacher ratios".[3]

Prior to 1978, when Congress also increased the funding for Indian impacted districts, many of the same problems were faced by reservation districts. The problems themselves arise out of the tax consequences of the Federal connection and residence of both military and Indian "A" Students. First, the Soldiers and Sailors Relief Act removes income tax and personal property tax as available local revenue for military impacted districts, because the Act allows servicemen to claim their home states as their legal residences. Federal caselaw similarly exempts Indian income and property from local taxation.[4] Second, states cannot charge sales taxes on purchases made by military personnel in business establishments on military bases. Indian purchases at Federally regulated business establishments on reservations are similarly exempt from sales taxes.[5]

By depriving local schools of the personal and real property taxes that are part and parcel of school finance in most states, Federal connection creates a basic problem for districts serving military and Indian A student. Furthermore, loss of income and sales tax revenues due to Federal connection often causes state legislatures to be less than sympathetic to the needs of districts serving Indian and military students. Recent moves in Florida, Virginia and North Carolina to charge tuition for military students reflect this state attitude. In Arizona and New Mexico, state school finance plans have consciously ignored cost factors in reservation education despite pleas from reservation districts that the plans would result in financial disaster for the districts.[6]

Although they share many of the tax base problems faced by military districts, reservation districts face costs beyond those incurred by the military districts. Indian reservations, sadly, are among the most economically deprived and undeveloped areas in this country. While tribes strive to improve their economies, the simple fact is that goods and services are not yet readily available and school districts must pay the higher costs incident to ordering supplies and services from distant markets. Many maintenance services, readily available in urban centers, must be provided by reservation districts themselves at great cost. Housing on most reservations is both inadequate and scarce, so reservation districts bear the cost of building and maintaining housing for many of their teachers and administrators. Transporting students to school, often for great distances on unimproved roads, consti-

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[3] H. Rept. 95-1137, May 11, 1978, in 1978 U.S. Code Cong. & Admin. News, at p. 5072.

[4] *McClanahan* v. *Arizona State Tax Comm'n*, 411 U.S. 164 (1973); *Moe* v. *Confederated Salish and Kootenai Tribes*, 424 U.S. 463 (1976).

[5] *Warren Trading Post* v. *Ariz. Tax Comm'n*, 380 U.S. 685 (1965).

[6] As a direct result of the New Mexico plan, public schools on the Navajo Reservation (Gallup-McKinley School District) went from a competitive teacher salary scale to the lowest scale in the State in 2 years.

tutes a major cost factor for both maintenance and operation in reservation schools. On top of these costs, reservation schools educate children who come to school not only unable to speak English but also having less than a rudimentary understanding of the non-Indian culture they are about to enter as an all but inescapable consequence of embarking on a public school education.

Facing these built-in costs of education, reservation districts have yet another problem rarely encountered by military districts. While a district serving a military base has other property within the district that is not tax-exempt, many reservation districts have as few as one or two taxpayers accounting for their assessed valuation. Furthermore, where military bases tend to increase property values around the base, the land around reservations is among the least desirable residential and commercial property in the country.

Given the backdrop of limited tax base and high costs, reservation districts' reliance on Impact Aid is understandable, but the level or reliance is nonetheless staggering. Public school districts serving Indian students number 722 with an Indian student count of 93,981. Overall, Impact Aid provides an average of 11 percent of the basic budgets in these districts. In 128 of these districts, Impact Aid provides 20–49 percent of the basic budget. For 26 of the districts, most located in Arizona, New Mexico, and South Dakota, Impact Aid provides 50 percent or more of the basic budget revenues.

The heavily impacted Indian districts, those with 20 percent or more eligilbe "A" students comprise the functional core of Indian public education in tis country; "A" students were 20 percent to 49 percent of the total enrollment in 122 of the districts serving Indian students, and they were 50 percent or more of the total enrollment in 105 of these districts.

The loss of, or severe reduction in, "A" student funding under the Impact Aid program would sound the death knell for Indian public education in the United States. In Arizona, for example, if reservation districts had to rely on the combination of state foundation assistance and local taxes they would face unconscionable student/teacher ratios and severe reduction in educational programs, if not being forced to close altogether. Taxpayers would face confiscatory tax rates where not limited by state law. Where limited, local taxes would not generate sufficient revenue to keep the schools open.

In short, federal Impact Aid is not merely just another program on Indian education—it is Indian public education. It forms the financial basis for public school survival on Indian reservations. If Indian students are to share in the rich tradition of public education in the United States, continued funding for "A" students under the program is essential.

IV THE NEED FOR PROTECTING THE CONGRESSIONAL PURPOSE BEHIND IMPACT AID FOR INDIAN STUDENTS

In these times, merely pointing up the need for continued federal funding based upon past reliance on federal funds is a risky business, because we have embarked on a national inquiry questioning such reliance at every level of our society. In the area of education, the inquiry seems to be yielding answers directed at less federal, and more state, responsibility for education. In urging continued funding for Indian students under the Impact Aid program, however, we are not positioning a barrier in the move to return to historical federalist precepts; rather, we argue for continued assertion of the constitutionally mandated role of the Federal Government in dealing with Indian people that has existed from the very creation of our Republic.

The Impact Aid program as it currently exists performs three valuable functions: (1) it enables the Federal Government to promote Indian education with a minimal direct intervention in the educational process; (2) it encourages states to assume an obligation to educate Indian students which they would otherwise be inclined to forsake; and (3) it provides a vehicle for Indian tribes to pursue their legitimate interest in the education of tribal members. Although not originally devised to perform these functions, the program has evolved into an effective means of fulfilling federal responsibilities while enhancing state-supported public education in the field of Indian education. The Impact Aid program's evolution provides an informative background for examining the recent federal role in Indian education.

Initially, Indian students were not included in the Impact Aid program. Congress saw fit to meet its trust responsibility in education through a system of BIA schools and supplementary tuition-like programs to the public schools. In 1953, when Indian students were included in the Impact Aid program, Congress still reserved substantial supplementary program, administered by the BIA, to pay for the added costs

public schools incurred in educating Indian students.[7] The major BIA program, which we know as Johnson-O'Malley, still retained substantial importance in providing basic financial assistance for costs incurred in pupil transportation and basic school programs. The resulting confusion over what federal money was designed for basic public school education and what money for special programs for Indian students created an administrative nightmare for school districts and often resulted in an unlawful comingling of JOM and Impact Aid funds which in turn engendered litigation by Indian parents.[8]

In 1978, Congress, through Public Law 95-561, increased Indian entitlements under the Impact Aid program to cover all education costs and specified that other programs, such as Johnson-O'Malley, would be exclusively supplemental.[9] As we have previously noted, Congress further provided for procedures whereby Indian parents and tribes could be assured some measure of participation in determining how the Impact Aid money would be allocated by local school boards. As a result of the changes wrought in 1978, public school districts receive needed money to provide basic education for Indian students in a context that acknowledges "the special relationship between the Indian nations and the United States". 20 U.S.C. § 240(b)3(F).

That "special relationship", which is recognized in the Impact Aid program, extends back to the first dealings of the United States with Indian tribes. The trust responsbility first defined by Chief Justice Marshall subsumed education as an inherent element of the definition. Indian tribes, so long as the United States recognizes their status as such, "are in a state of pupilage" to the more powerful sovereign. *Cherokee Nation* v. *Georgia*, 30 U.S. 9, 5 Pet. 122 (1831). In addition to the definition provided by Justice Marshall, the issue of education was prominently addressed in most treaties made with Indian tribes. In essence, the process of education is central to the relationship between the United States and Indian tribal members.

In this country, we have long acknowledged that the public school system constitutes a solid foundation upon which to build a democracy, so it is understandable why Congress has taken steps to delegate to the public schools part of the federal responsibility in Indian education. However, such delegation creates several problems in the states running the public school which Congress has always understood.

The first problem, the states' antipathy toward Indian tribes, is as old as our society's relation with Indian people. The existence of semi-sovereign governments within a state's borders has been an irritant to state governments which has not ordinarily produced the most high minded state action. In speaking of the tribes' relations with the states, the Supreme Court stated in 1886:

"They are communities dependent of the United States . . . Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power." *U.S.* v. *Kagama*, 118 U.S. 375, 383-84 (1886).

While no longer deadly enemies, Indian tribes and States still evidence a degree of animosity in their relations. In the field of education, the animosity surfaces in school finance.

School finance plans cost state governments ever increasing amounts of money. This is true both because equalization, which implies greater state participation, is an idea whose time has come, and because property taxpayers have made it emphatically clear that the time for increased property taxes has gone. The extremely low assessed valuations of reservation school districts render them highly dependent on revenues other than local taxes. States, seeing precious dollars in state aid going to reservation districts, where the reservation itself deprives the state of some tax revenues, often turn deal ears to the pleas of financial hardship coming from these districts.

In Arizona, if most reservation school districts has to rely on the state school finance act alone, they could not survive. Every district on a reservation in this State spends more per pupil than the finance plan would otherwise provide. The higher costs flowing from pupil transportation, teacher housing, rural economic isolation, and cultural differences which Congress as recognized, receive no similar recognition from Arizona. To the contrary, the State has seen the higher per pupil cost as exemplifying profliage spending in Indian districts and has imposed budget limits

[7] S. Rep. 714, July 29, 1953, 1953 U.S. Code Cong. & Admin News, pp. 2330, 2343.
[8] See, *Natonabah* v. *Board of Education*, 355 F. Supp. 716 (D.N.M., 1973).
[9] H. Rept. 95-1137, May 11, 1978, 1978 U.S. Code Cong. & Admin News, p. 5083.

on these districts which restrict even the expenditure of Impact Aid funds. These restrictions are currently being challenged through litigation, and the litigation itself relies on the congressional purpose in providing federal money to these high cost reservation districts.

Arizona, like other states, has viewed Impact Aid as a potential source of state relief on reservations and is anxiously seeking federal approval to substitute Impact Aid for state aid.[10] New Mexico, which obtained such federal approval several years ago, used the Impact Aid from reservation districts as a statewide source of federal credit. It was only after facing the near financial ruin of several reservation districts that New Mexico grudgingly altered its school finance formula to accomudate these districts' higher costs.[11]

In trying to make state legislatures appreciate the financial needs of reservation districts, Indian people face a second hard reality in their relations with state governments—lack of any real political power.

Indians constitute small insular minorities in the states where they live, and their ballot strength is insufficient to pose any meaningful threat in the state legislative process. They must rely on the protective power of the Federal Government exercising its trust responsibility to see that their needs are recognized.

In fairness to the States, however, it must be noted that in providing public school educations on reservations they shoulder a burden of great weight. Without the local and state taxes that would otherwise be generated in the absence of the federal trust relationship governing reservation land, the cost to the state is significant. Without the federal assistance Impact Aid provides, what little attention the states tend to give to Indian education would undoubtedly devolve into total indifference. President Reagan's "New Federalism" clearly recognizes the need to put adequate funding behind any transfer of traditional federal responsibilities to the States. In the area of Indian education, Congress, through Impact Aid has been practicing the new federalism for thirty years.

However, now is an hour of crisis for Indian districts in the state of Arizona. The 1980-81 Arizona school finance law (HB 2013) made its full impact felt on reservation districts during the 1982-83 school year. Districts including Window Rock are in the process of reductions in force both in teachers and non-teaching personnel and severely restricting programs. For instance, in the Window Rock district, the teaching staff has been cut by 31 positions for the 1983-84 school year. Due to the Arizona system of school finance, which is a pure equalization model, Window Rock will be losing more teachers and programs in the 1984-85 school year. This is especially true if the state is successful in having its application for equalization of Impact Aid funds finally approved by the U.S. Department of Education. At the present, Window Rock and other Indian districts in the state have filed an administrative appeal to the recent approval by USDE of Arizona's application. In addition, litigation is in progress in federal court by the Indian districts against the state, asserting that federal law and congressional intent takes precedence over state school finance systems which confiscate federal money destined for the education of Indian children. This is especially true of the special education add-on funds.

The effects of equalization will be very pronounced on most Indian districts and by 1985-86, when all districts in Arizona are "equalized" by the state finance plan and receive equal dollars per pupil, regardless of educational need or extraordinary costs of schools in rural, isolated reservations, we will receive equal dollars for unequal needs.

We ask the Congress to carefully deliberate the current system of allowing states to equalize Impact Aid funds and to comingle them with state funds. The theory of rewarding states which establish fiscal equality between all districts is commendable. We support this theory of rewarding those states which show goodwill and equity toward all children and districts. However, states such as Arizona should not be allowed to slip under the fence, so to speak, as they attempt to subvert the regulations to their own benefit. We ask for consideration of the amendments which are attached. The proposed amendment regarding equalization is nothing more than a means of more fully insuring that all factors which affect the equality of educational opportunity are taken into account in equalization, namely, consideration of the special educational needs of the federally-related children and the cost of Indian districts located on rural and isolated reservations. It seems only reasonable that Congress should be concerned that monies it appropriates reach the target groups and are used to service those groups.

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[10] Pursuant to 20 U.S.C. 240(d)(1)(2)(A).

[11] See attached editorial from the Gallup, New Mexico Independent.

Presently, in Arizona, school district spending limits prohibit Indian districts from spending the funds Congress appropriates. Approximately 30 percent of the Impact Aid funds in Arizona find their way back to the utility companies which are the majority taxpayers on Indian lands through reduction or elimination of property taxes. We do not feel it was the real intent of Congress to provide Impact Aid funds to lower property tax rates or to simply relieve the states of their educational responsibilities to all citizens.

CONCLUSION

The Impact aid program as it currently exists addresses many of the historical bases of the federal-state-Indian relationship. the program respects the relationship between the United States and Indian Tribes. The program enhances state public education for Indian students without engendering excessive federal intrusion into state and local government. Most importantly, the program provides Indian students with needed protection in educational finance, and without this continued federal funding presence, the states would, absent of continued prodding through litigation, undoubtedly neglect the financial support of Indian education. The federal-state-Indian relationship which Impact Aid exemplifies, was born of the practical political necessity in dealing with powerful Indian nations but it has grown for two centuries into a wellspring of national morality in aiding a proud but impoverished insular minority. The program, like the relationship, has grown and prospered under wise congressional leadership, and it deserves to be continued.

Thank you.

Mr. KILDEE. Thank you very much, Dr. Glass.

I had the privilege of speaking to the Navajo Tribal Council the last time I was out at Window Rock. Peter McDonald was chairman that time. If you would give them my Ya-ta-hay, I would appreciate that.

Mr. GLASS. Thank you, Mr. Kildee, I certainly will.

Mr. KILDEE. Mr. Ulmer, I think we had three suggestions for possible changes in the law and some of you have mentioned that, too. One would be a total prohibition on equalization for the heavily impacted districts, those of 20 percent.

I think that's a definition of heavily impacted. The other would be that certain impact aid, and you mentioned this also; would be exceeded. That is the 25 percent add on for the Indians and the 50 percent for the handicapped and I think your third suggestion was that there should be notice to the tribes for any State application for equalization.

Would the rest of you concur with those possible changes in the law? You mentioned a couple of them yourself, Dr. Glass?

Mr. GLASS. Yes, I basically concur with them. The equalization, of course in terms of the Navajo reservation, the consequences of equalization are great. We feel, I believe that I can speak also for the tribe, Mr. Zah for many years until he was elected chairman last January, was chairman of the board of the Window Rock School District. We feel that perhaps we have a naive belief that the funds that Congress appropriates for the education of Indian children should be used for the education of Indian children.

I believe that Congress was well intentioned when they included the equalization provision in the law. I believe the intent of Congress was to encourage States to equalize by providing equitable systems of school finance.

In other words, Congress was intending to flow the fiscal year 1980 funds to the States and the States would flow them to the impact school districts to provide for extraordinary costs. I believe that is what the intent was.

However, in the case of Arizona at this time, that is being circumvented. This was also the case a few years ago in New Mexico where the Gallup-McKinley School District, the largest one in New Mexico, the year after equalization they nearly went bankrupt. They went from one of the higher spending districts to one of the lower spending districts and it took the New Mexico Legislature several years to pass enough legislation to correct the situation.

So there was a great deal of suffering. There was a great deal of inequality in educational programs in that district for several years and that was caused by the equalization process. So I think that in general we want equity.

In other words, straight dollar equality is not equitable.

Mr. KILDEE. At this point, one of our regular and serious members of the committee, I will defer to him, Mr. Packard from California.

Mr. PACKARD. Thank you, Mr. Chairman. I appreciate the chance to attend your hearing on this important issue.

I don't know who to address this question to, but perhaps whoever would like to respond and I don't want to prolong the hearing. What percent of your total revenues in your district comes from 874 moneys?

Mr. GLASS. In my district, 30 percent and in terms of the other 7 districts on the Navajo reservation having a combined total of 30,000 students, approximately 33 percent.

Mr. PACKARD. And is that generally true in most of the other districts?

Mr. BARNES. In our particular district in South Dakota, about 56 percent of our total budget comes from impact aid.

Mr. ROBINETT. In Montana that figure is about 55 to 60 percent and with the cutbacks as to the way that we receive our funds, although the entitlement in our district in 1982 was $1 million, paying us on the basis of 1981 we only received half of that amount so the entitlement being $1 million, we received only half.

Mr. PACKARD. The remaining portion of your revenues come from what sources generally?

Mr. BARNES. In South Dakota, about 30 percent of the money would come from the State. This would be true of most of the Indian impact districts and the one military impact district that we have at Ellsworth Air Force Base. The rest of it then would come from local taxes.

Mr. PACKARD. State resources and impact 874 moneys are probably 75 to 80 percent of your revenues? Is that generally true?

Mr. GLASS. Yes.

Mr. PACKARD. What portion has been coming from section B moneys rather than the A?

Mr. GLASS. On Indian reservations very, very little. Of course, military——

Mr. PACKARD. That is changing military issues, now I think you recognize that, so that very little would be coming from B moneys to anyone.

The delays in receiving your 874 moneys I think is not only with Indian districts, but it is true in military impacted districts also. Even though you have had delays, have you received essentially

100 percent of your allocated funds or have there been funds that have never been received even on a delayed basis?

Mr. BARNES. In the case of South Dakota we have received, I think in almost all cases, 100 percent of the payments. Of course, recognizing that these payments were prorated down from what the entitlement was but in the case of South Dakota, yes, we have received almost all of the money that we have coming for this past school year.

Mr. PACKARD. Is that true with most of you? You have not found shortfalls where they have just not sent the money for a variety of reasons?

Mr. GLASS. There was one small problem that has occurred in the last several years that affects a few districts. Apparently, the USDE computer was not set up to handle unified school districts and the result was that my district, I have been in that district 1 year since last July and I found out recently that I was short-changed $1 million in fiscal year 1982.

However, that is now being rectified.

Mr. PACKARD. Do the cutbacks in your 874 moneys affect your high school or elementary schools, or is there a difference? Most of you have unified districts.

Mr. BARNES. I think in our particular case it would be across the board. Up to this particular time, despite the cutbacks we have been able to keep our educational program intact at the expense of delaying other projects which might be maintenance projects.

And, of course, these are going to catch up with us in a period of 2 or 3 years because you can delay major renovation projects just so long until you have a major problem.

Mr. PACKARD. I have one last question that relates to the equalization process. Who is responsible to remove that? Does that require State legislative action or is it Federal?

Mr. ULMER. Mr. Packard, the approval to equalize impact aid is given by the Federal Government by the Department of Education, Division of Impact Aid, subject to a requirement that the State have in place a school financed equalization program.

Mr. PACKARD. So the action that you are requesting as it relates to the elimination of equalization is something that would begin at this level and not refer back necessarily and wait upon the State to do it?

Mr. ULMER. One of the proposals that is mentioned in my written testimony on behalf of the Federal schools serving the Papago Indian Reservation would amount to an invitation to Arizona to upgrade its school finance plan so that real educational opportunity was provided on an equal basis in the State.

Once the State upgraded its program to the Federal standard, then the State would be entitled to equalize the Impact Aid consistent with its overall school finance policies.

Mr. PACKARD. Who does this equalization process benefit? Obviously the Indian districts that you are referring to and representing are being hurt by it but who is the benefactor of it? The same amount of fundings are passed through, is that not true?

Mr. GLASS. Mr. Ulmer, would you care to answer that?

Mr. ULMER. How do you mean the same amount of funds being passed through?

Mr. PACKARD. Well, I am trying to determine in the process of equalization, does that involve the same basic amount of funds available to the State or would it be reduced while another is increased? Is that the process?

Mr. GLASS. As I understand the process, Mr. Packard, I believe that all the districts in Arizona receive about $30 million a year in impact aid. Currently, those funds go to the individual school districts, the applicants; those who are qualified.

One of our problems at this moment is that the districts, because of the spending caps imposed by Arizona school finance law are not able to spend the $30 million. I would make a rough guess that $15 million of that $30 million is going toward taxpayer relief in those school districts and most of those school districts that receive the impact aid, the only taxpayers are utility companies.

Mr. PACKARD. So that the money is never collected?

Mr. GLASS. Yes.

Mr. PACKARD. It is not a matter of getting the $30 million and redistributing the money to equalize. It is a matter of just not collecting the money?

Mr. GLASS. Yes.

Now, if the State equalizes impact aid, the funds go directly—well, what happens is that we would still receive our impact aid checks. However, we just don't receive any State aid. Unfortunately, we still have these spending caps which do not allow for the special needs of Indian students and the extraordinary cost of doing business on those rural and isolated reservations.

Mr. KILDEE. Will the gentleman yield?

Mr. PACKARD. Yes.

Mr. KILDEE. The State would deduct from what you would get from the State part of that impact aid?

Mr. GLASS. Yes, that is correct, Congressman.

Mr. KILDEE. So you would be relieving the State taxpayers in one instance across the State, but also there is some relief given to your local taxpayers, the two utility companies and that is on their property tax?

Mr. GLASS. That is correct.

Mr. ULMER. If I could amplify the answer a little bit, the question being who benefits from equalization as has been mentioned, the taxpayers on the reservation are benefitting under the plan; tax rates in the State as a whole are subject to a cap, constitutional limitation.

The school district expenditure limitation enables the State to keep the homeowner taxes at the level that they have been stipulated to in the 1979 amendments to the constitution.

Another beneficiary is the urban districts. They, of course, have easier access to the political process in Phoenix than the Indian districts. They have been able to secure weighting factors in the formula under the State's equalization plan which favor their situation.

Particularly they have a weighting factor for experienced teachers so they get more spendable revenues to fund teachers at higher levels of experience which make good sense and we don't hold that against them. However, we do not have similar weighting factors for rural isolation, high transportation costs and so on.

The result of that is that for the State as a whole, the percentage of total spending for teaching is 59 percent at my school district on Papago it is only 44 percent. One of the things that we have seen in Arizona, of course, is a problem with a State deficit due to economic conditions that don't need to be discussed.

The State has been presented with this kind of information, this kind of disparity in information. The response has been, we would like to help but we have no revenues. Yet, we can point to many, many school districts around the State which are extremely wealthy because of high concentrations of industrial activity and in one case a nuclear electrical generating facility.

These districts, because of their tax wealth, pay a tiny amount of tax to support the schools. In one case, the tax rate per $100 of assessed valuation is only 17 cents. Yet, in most of the States it is at least $3.46.

Well, I think one answer to the State's revenue problem would be to simply tax the nuclear generating facility at the same rate as most of the taxpayers are taxed in the State, and if that were not on a statewide basis, the State would have no additional revenue without imposing an extraordinary tax burden on any particular business community or residential community would have, I believe, and Dr. Glass can correct me, I think the figure is something like $50 million in extra revenue?

Mr. GLASS. It is $54 million.

Mr. PACKARD. In conclusion, I would hope that each of you would work as closely with your State legislators in trying to get their cooperation to solve and work with your problem on taxation and we also can be responsive to your concerns as you present them here. We appreciate you appearing before us and I appreciate the opportunity to participate.

Thank you, Mr. Chairman.

Mr. ULMER. If I could add one more thing, I am pleased to say that the Indian districts now have a formal relationship with the Governor's office regarding these issues. The Governor has appointed highly placed staff members to deal with the problem in conjunction with leaders of the State legislature as well as the superintendent of public instruction.

Mr. KILDEE. Thank you, Mr. Packard.

We have received a resolution from the Legislature of Arizona calling for full funding of impact aid, indicating that the education of Indian children and I want to be fair, is a Federal legislation and should be funded through impact aid.

So without objection, I would like to make that resolution whether we agree or disagree with it, part of the record of this hearing.

What is the principle source of State revenue in Arizona?

Mr. ULMER. Income tax and rentals from State education trust lands.

Mr. KILDEE. So your property tax is basically a local tax in Arizona. It is not a statewide property tax generally?

Mr. ULMER. It is local.

Mr. KILDEE. Mr. Barnes in his statement mentions that if impact aid were discontinued that many districts would close and the major question then would be where the children would go to school. But would each of you please describe the educational situa-

tion in your area and what options would be available if your school districts did close because of finances, particularly the Impact Aid dollars.

What would happen educationally in your area if those school districts now wish to depend a great deal upon Federal impact aid and were not able to continue to function if that was cut off?

Mr. GLASS. I think on the Navajo reservation in the seven public school districts if impact aid were cut off of course there would be litigation.

Second, I think in the short run, however, the classes would probably go up at least one-third, which would bring them into the 35 to 40 area in elementary schools and very high in the secondary schools and there would be all special programs eliminated; art, music, bilingual education, the whole gamut.

Essentially, we spend about 79 percent of our budget on employees and we would have to go right in there and I would say reduce our staff by 30 or 40 percent.

Mr. KILDEE. I want to emphasize that my question is hypothetical, hopefully. I certainly hope that it remains hypothetical.

Mr. GLASS. I hope so too, sir.

Mr. KILDEE. Any other response to that?

Mr. BARNES. Well, I would just elaborate on my previous remarks. I think this statement is basically in my formal written statement that in our particular case it would not be a matter of reducing offerings, cutting out athletics, increasing class size. It would simply be picking a month in the coming year when we would have to close the doors because when well over half of our income comes from impact aid there is not any way that you can reduce programs, reduce staff to make up for that loss.

As I have stated earlier, possibly the children would have to go to another reservation school if there was room for them at that, say, the Pine Ridge Reservation which I don't believe that there is so I am not sure that we have a viable option in the case of our particular reservation.

Mr. KILDEE. I guess my question was hypothetical that we probably could conclude then that it would be disastrous if that were to happen.

Mr. ULMER. Yes.

Mr. KILDEE. Mr. Ulmer, you mentioned that many of the children speak Papago or Indian English, which is a combination of the two. Do you have bilingual programs in your school district?

Mr. ULMER. We have one noncertified supplemental instructor who is responsible for covering high school and elementary enrollment of 944 students.

Mr. KILDEE. Do you receive any Federal bilingual funds for your program?

Mr. ULMER. The district was the beneficiary several years ago of a grant which expired at the end of last year.

Mr. KILDEE. Thank you very much.

Let me ask all of you as a concluding question, in general how do you feel that Public Law 95-561 amendment is working and, specifically, should the local policy and procedures be periodically reexamined? Would you care to comment on that?

Mr. BARNES. I would comment that I think that the policies and procedures that are present in each district should be examined on the local level and we do this annually. We take a look at whether or not they are working as they are intended to work and when I say we take a look we are talking about the board of education and also our parent committee.

We do take a look and up to this point we have come to the agreement that they are working as intended but I do think you have to constantly take a look at them on the local level.

Mr. KILDEE. Does anyone else care to comment on that?

Mr. ULMER. I would concur with that. I think a requirement of an annual updating of the policies and procedures is entirely appropriate and I can report from Indian Oasis that those amendments could have an extraordinary beneficial effect on Papago.

The reason is their system is divided between the Bureau schools, of which there are several on the reservation, and then the public schools. The result is that the system is badly fractured for students. There are differing curricula and differing attendance standards and so on and so on.

The tribe offers the prospect of unifying these two conflicting systems so that there are reservation-wide curricula, reservation-wide language standards, reservation-wide transportation plans and so on and so on.

So the 1978 amendments hold forth not only the prospect of greater tribal control but also tremendous increases in efficiencies at the local level.

However, as I pointed out earlier, those prospects have yet to be realized because of the desperate financial situation that the public school finds itself in.

Mr. KILDEE. Yes?

Mr. ROBINETT. My reaction to your question would be that each district's ability to annually upgrade the policies and procedures may be a very practical approach, but that perhaps a requirement of every 3 years that they be upgraded may be more appropriate.

Mr. KILDEE. Thank you very much.

Your testimony has been very, very helpful. My own convictions on the importance of Impact Aid especially for Indian schools has been certainly corroborated and my efforts to make sure that we adequately fund in a timely fashion, I think you have made some interesting points, too, on the possibility of forward funding which would be helpful to you; I can see that, that intention is certainly strengthened by both your knowledge you have imparted here today and your obvious deep convictions as to the importance of education for the people to whom we have a very special relationship in this country.

I think we have to try to undo some of the disastrous consequences of the Reconciliation Act of 1981. Every time I look at that bill I find more disasters in it. I take some conciliation in the fact that I, with gusto, voted against it for 500 reasons I had by 3 o'clock in the afternoon having poured through that bill, which was the size of a New York telephone book.

But that cap that was put in in 1981 was a disastrous cap and I think you realize that. Hopefully under the chairmanship of Carl Perkins, the chairman of the full committee and the chairman of

the subcommittee, which is an oversight hearing, is going to work to remove those caps, particularly the cap on Impact Aid which has been disastrous and I think your testimony has been very, very helpful and we are looking at Impact Aid in general, looking at, as I say, to those who have been hurt, especially those for whom we have a special legal, moral and treaty obligation to serve.

You are in a very, very important area of education. I commend you for your dedication to that and I hope that your dedication will affect the Congress so that we can do what's right. Thank you very much.

Mr. GLASS. Thank you, Mr. Chairman.

Mr. BARNES. Thank you.

[Whereupon, at 12:30 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

OFFICE OF THE SECRETARY OF STATE,
Phoenix, Ariz., February 23, 1982.

Hon. CARL D. PERKINS,
Chairman, Education and Labor Committee, House of Representative, Washington, D.C.

DEAR REPRESENTATIVE PERKINS: The Arizona State House of Representatives, Thirty-fifth Legislature, Second Regular Sesson, 1982, passed House Memorial 2001, urging the President and Congress of the United States to continue funding the impact aid to school districts on Indian Reservations.

The members of the Arizona State House of Representatives have asked me to transmit the enclosed certified copy of this Memorial to you for your consideration.

Sincerely,

ROSE MOFFORD,
Secretary of State.

Enclosure.

HOUSE MEMORIAL 2001—A MEMORIAL URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CONTINUE FUNDING OF IMPACT AID TO SCHOOL DISTRICTS ON INDIAN RESERVATIONS

To the President and Congress of the United States of America:

Your memorialist respectfully represents:

Whereas the State of Arizona contains within its boundaries a large amount of Federal trust land on Indian and military reservations located within the state; and

Whereas these lands are not available to the State or local school districts for the purpose of property taxes; and

Whereas these lands held in trust for the Indian people and the military reservations are Federal lands not subject to State jurisdiction and the children of people who work and live on these reservations receive their education in the public schools of the State of Arizona; and

Whereas for many years, in recognition of its responsibility to provide for the education of school age children who live on Federal lands and in recognition of the financial hardship imposed on local school districts by the presence of such Federal trust lands, the United States Government has provided impact aid funds to school districts under Public Law 81-874, and school construction funds under Public Law 81-815. These funds have enabled the school districts affected to provide a free public education for the students without placing an unreasonable burden on a few taxpayers or relaying totally on State education funds; and

Whereas the Office of Management and Budget and the Appropriation Committees of Congress are contemplating the elimination or severe reduction of Federal impact aid funds without proposing any alternative means of meeting the Federal obligation to provide for the education of the children in these schools or compensate the affected school districts for the federally based impairment of their property tax basis; and

Whereas elimination of Federal impact aid could result in the loss to the State of Arizona of in excess of twenty-five million dollars in education funds. It could cause

the local school districts most affected to become totally incapable of supporting themselves, making them completely dependent on state revenues.

Wherefor your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the President and Congress continue Federal funding of Public Law 81-874 and Public Law 81-815 for school districts with large Federal lands since the State of Arizona considers the provision of adequate funding to these school districts to be an obligation of the Federal Government and such funding should not be subject to reduction or transfer to the States.

2. That the Secretary of State of the State of Arizona transmit certified copies of this Memorial to the President of the United States, the Director of the Office of Management and Budget of the United States, the Chairmen of the United States Senate and House of Representatives Committees of Budget, Education and Labor, and the Select Committee on Indian Affairs and to each Member of the Arizona Congressional Delegation.

NATIVE AMERICAN RIGHTS FUND,
Boulder, Colo., July 18, 1983.

Re impact aid tribal complaint procedure.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: The Native American Rights Fund has for the past thirteen years been involved in representing the best interests of the American Indian people. A significant portion of our representation has involved working in the area of education.

More specifically, I have personally been involved in prosecuting on behalf of the Creek Nation of Oklahoma and the Sisseton-Wahpeton Sioux Tribe of South Dakota, two of the four tribal Impact Aid complaints which have been filed since passage of Public Law 95-561 in 1978. This experience has pointed out serious deficiencies from the point of view of Indian tribes and parents. It is the consensus of our office that the intent of Congress is not being fulfilled and that amendment is necessary.

For these reasons, I ask that the attached analysis entitled "Impact Aid: Positive Developments or Another Case of Indians Being Sued?", be considered and entered into the record compiled at the Subcommittee oversight hearing conducted on June 24, 1983 relative to the Impact Aid program.

Many thanks to you from our clients for your valuable support of quality Indian education and for consideration of the attached. I stand ready to assist in any way.

Sincerely,

KURT BLUE DOG.

TESTIMONY OF KURT V. BLUE DOG, STAFF ATTORNEY, NATIVE AMERICAN RIGHTS FUND, BOULDER, COLO.

IMPACT AID: POSITIVE DEVELOPMENTS OR ANOTHER CASE OF INDIANS BEING USED

I. Background

Congress first enacted the Impact Aid laws in 1950,[1] providing federal subsidies to public schools for the purpose of compensating school districts for educating "federally-connected" children whose parents lived and/or worked on federal tax-exempt properties (i.e., impacted areas). Beginning in 1953, these statutes were made applicable to school districts educating Indian children whose parents reside on non-taxable Indian land.[2] Such federal funding routinely goes into the district's general fund and thus can be utilized for practically any purpose including support for the basic educational programs. Over the years, those public schools located on or near Indian trust lands with a significant number of Indian students have become heavily dependent on Impact Aid funding.

Prior to 1978, school districts, as a practical matter, were not required to account to the federal government concerning the expenditure of Impact Aid monies. Although a school district received Impact Aid funds based on a count of Indian children,[3] there was no statutory mechanism to insure that Indians would in return be

[1] Public Law 81-874 and Public Law 81-815; 20 U.S.C. §§ 236-244, 631-647.

[2] Act of Aug. 8, 1953, ch. 402 § 11, 67 Stat. 530, 537.

[3] The funds are allocated to different school districts based on a formula which takes into account local contributions and the average number of eligible children in daily attendance.

provided with an equal educational opportunity or their fair share of the district's total revenues. Consequently, the sole means of enforcing Indian rights in these areas was through complex and expensive federal court litigation. See, e.g., *Natonabah* v. *School Board for Gallup McKinley School District*, 355 F. Supp. 716 (D. N.M. 1973).[4]

II. The 1978 impact aid amendments

The 1978 Amendments (Title XI of Public Law 95-561) to the Impact Aid laws were the direct result of extensive research, Congressional hearings, field hearings, field trips over a fifteen-month period, conducted by the Advisory Study Group on Indian Education of the House Committee on Education and Labor.[5] Based upon the hearings and on-site inspections, it was determined that "the lack of Indian involvement and participation" in public school program required "immediate remedial legislation."[6]

In the resulting legislation, Congress placed the burden upon the affected school districts to develop policies and procedures to insure that substantial and meaningful Indian involvement and participation was obtained in all facets of school activity funded by Impact Aid monies.[7] To enforce this remedy, Congress made the establishment of such policies and procedures a condition to entitlement for federal funds under Public Law 81-874. Additionally, and apparently as an inducement, the amendments increased the federal entitlement from 100 percent to 125 percent of the local contribution rate for each Indian child.[8] Furthermore, Congress authorized the Indian tribes to oversee compliance of the public schools with the Indian involvement condition of Public Law 81-874 by empowering tribes to file a complaint with the Department of Education against any public school which fails in any way to comply with the act and regulations. Congress also directed that the regulations implementing Public Law 81-874, as amended, establish "whatever steps are necessary to ensure that there is substantial Indian tribal and organizational participation."[9] Congress clearly intended that public schools which receive funds under Public Law 81-874 be held to a strict standard of accountability in carrying out their responsibility under the act to increase Indian involvement in public school programs.

Section 5(b)(3) of Public Law 95-561 [20 U.S.C. § 240(b)(3)] requires that to receive an Impact Aid entitlement, a public school district must have established "policies and procedures" which ensure that:

(i) Indian children claimed under section 3(a) participate on an equal basis in the school program with all other children educated by the local education agency;

(ii) Applications, evaluations, and program plans are adequately disseminated to the tribes and parents of Indian children claimed under section 3(a); and

(iii) Tribes and parents of Indian children claimed under section 3(a) are:

(I) Afforded an opportunity to present their views with respect to the [Impact Aid] application, including the opportunity to make *recommendations* concerning the needs of their children and the ways by which they can assist their children in realizing the benefits to be derived from the educational programs assisted under this paragraph;

(II) Actively consulted and involved in the planning and development of programs assisted under this paragraph; and

(III) Afforded a general opportunity to present their overall view on the educational program, including the operation of such programs, and the degree of parental participation allowed. (Emphasis added). 20 U.S.C. § 240(b)(3)(B).

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[4] In Natonabah, the court found that the general quality of education received by Indian students was inferior to that received by non-Indian students as the school district had provided the predominantly non-Indian schools in the district with much better school facilities, books, supplies, and equipment.

[5] The amendments were also based upon the 1969 Special Subcommittee on Indian Education, Comm. on Labor and Public Welfare, "Indian Education: A National Tragedy—A National Challenge," S. Rep. No. 501, 91st Cong., 1st Sess. (1969). The report expressed concern over "the low quality of virtually every aspect of schooling available to Indian children. The school buildings themselves; the accessibility of school buildings—all these are of shocking quality." Characterizing national policy for educating American Indians as "a failure of major proportions," the report recommended "increased Indian participation and control of their own education programs."

[6] H. Rept. 1137, 95th Congress, 2d session, 115 (1978), 1978 U.S. Code Cong. & Adm. News 5082.

[7] 1978 U.S. Code Cong. & Adm. News 5083.

[8] 20 U.S.C. § 238(d)(2)(D).

[9] 1978 U.S. Code Cong. & Adm. News at 5083.

Section 5(b)(3)(C)(i) permits any tribe that has students attending the LEA's schools to file a written complaint regarding any action of the LEA "taken pursuant to, or relevant to," the requirement in section 5(b)(3)(B). Upon receiving a complaint, the Department must designate a time and place for a hearing and appoint a hearing examiner within 10 days; must conduct a hearing within 30 days of the designation of hearing; and must establish a record of the proceedings. The complaining tribe or its designee is entitled to present evidence at the hearing and to make recommendations concerning appropriate remedial actions.[10] Following the hearing, the hearing examiner submits to record and his findings and recommendations to the Assistant Secretary who then renders the Department's final determination regarding the complaint.

If the LEA does not follow the remedial action set forth in the final determination, the Secretary can withhold payment of all monies to which the LEA is entitled under the Impact Aid laws until such time that the remedy is undertaken. This right to withhold monies is subject to two qualifications. First, the complaining tribe or its designee may formally request that the funds be released to the LEA. Second, the Secretary cannot withhold such monies "during the course of the school year" if he determines that withholding it would "substantially disrupt" the educational programs of the LEA.[11] In addition, in the event that the LEA does not undertake the remedial action required, § 1101(d) of Public Law 95-561 authorizes the affected tribes to elect to contract with the BIA to establish a tribally controlled school or the affected tribe may elect to have such services provided by a BIA school. Although § 1101(d) mandated that special regulations be promulgated by November 1, 1979, in order to provide procedures to implement the tribal election provision, these regulations have not yet been published by the BIA.

Although four separate administrative complaints have been filed by tribes alleging non-compliance since passage of the 1978 amendments,[12] none of the final determinations have been appealed to federal court, although that possibility is provided by 20 U.S.C. § 240(b)(3)(C)(vii). Also, none of these four public school districts have rejected the plan for remedial action set forth in their respective final determinations.

II. The implementing regulations

The applicable regulations require more specificity in the content of a district's Impact Aid policies and procedures. They must include specific procedures: (1) to afford tribal officials and parents the opportunity to comment on the degree of Indian students in participation school program, (2) to assess the extent of the Indian students' participation in school programs, and (3) to effect a modification of the school program where necessary or ap propriate to achieve the desired degree of participation.[13]

To implement the dissemination requirements listed at 20 U.S.C. § 240(b)(3)(B)(ii), the regulations at 34 C.F.R. §§ 223.10(b) and 223.11(b) require the district to establish specific procedures by which specified material will be disseminated to the Indians. The materials required to be disseminated are (1) the P.L. 81-874 application, (2) any evaluations of educational programs, and (3) any program plans for education programs that the LEA plans to initiate or eliminate. The regulations further require that procedures be adopted which insure (1) that the materials are disseminated in a timely manner, and (2) that the Indians are provided with adequate time and opportunity to present their views on the material.

In implementing the active consultation and involvement requirements codified at 20 U.S.C. § 240(b)(3)(B)(iii), departmental regulations listed at 34 C.F.R. §§ 23 10(c) and (d) and 223.11(c) and (d) require the district to establish procedures designed (1) to achieve active consultation between the LEA and the Indians as well as regular involvement of the Indians in the planning and development of education programs,

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[10] 20 U.S.C. § 240(b)(3)(C).

[11] 20 U.S.C. § 240(b)(3)(D).

[12] The first complaint was filed on Apr. 11, 1980, on bahalf of the Pueblos of Laguna and Acoma and a final determination of that complaint was rendered on Oct. 3, 1980. The second complaint, dated Apr. 17, 1980, was filed on behalf of the Leech Lake Reservation Business Council against a public school district located in Cass Lake, Minnesota and a final determination was rendered on that complaint on November 10, 1980. A third complaint, dated Aug. 20, 1980, was filed on behalf of the Muskogee (Creek) Nation of Oklahoma against the Wetumka public schools and a final determination of that complaint was rendered on July 29, 1981. The Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation filed the fourth complaint, dated Feb. 22, 1982, against the Sisseton Public School District of South Dakota, and final determinations were rendered on Sept. 20, 1982, and on June 15, 1983.

[13] 34 C.F.R. § 223.10(a) and § 223.11(a).

and (2) to obtain the recommendations of the Indians on meeting student needs and their overall views on education programs. Furthermore, the applicable regulations at 34 C.F.R. § 223.11(e) require the district to establish procedures to assess the meaningfulness of Indian input and to allow modification of the policies and procedures, if necessary , based on that input.

Even with these more stringent regulatory requirements of specificity in policies and procedures, experience has shown that it is not difficult for a school district so inclined to subvert the intent of Congress in passing the 1978 Amendments.

IV. Problems with the impact aid amendments

A. Vague compliance standards and procedures.—The regulations implementing the 1978 Impact Aid Amendments fail to provide standards and procedures which adequately guide LEAs and the Department and by which Indian tribes and parents can judge their compliance. The result is a situation in which the goals and policies of the Impact Aid Amendments are easily frustrated. This is apparently the cause of the relatively ineffective enforcement of the standards through the adjudicatory process established by the amendments.

The first two tribal Impact Aid complaints were filed on behalf of the Pueblos of Laguna and Acoma (*Laguna*), and on behalf of the Leech Lake Chippewa Reservation Business Committee (*Leech Lake*). In both instances, the Tribes' challenge focused on (1) the failure of the LEAs to actively consult with and involve the tribes and parents in the planning and development of policies and procedures, (2) the failure of the LEAs to actually implement the policies and procedures, and (3) the refusal of the LEAs to disseminate program plans and to afford Indian parents with a general opportunity to present their overall views on the educational program and its operation. [14] The Leech Lake Reservation Business Council also alleged that the policies and procedures did not satisfy the requirement that they ensure that Indian children participate in educational programs on an equal basis with other children. Leech Lake, p. 3.

In attempting to frame minimum standards for compliance absent regulatory guidance, the Assistant Secretary for Elementary and Secondary Education remarked that "no clear guidance as to how the adequacy of the policies and procedures is to be judged is provided by the legislative history of the 1978 amendments. Given the general purpose of the amendments, *however, it must reasonably be concluded that the adequacy of policies and procedures is not to be judged against some abstract standards, but rather in light of particular local circumstances. . . .*" (emphasis added). *Laguna*, p. 5. See also, *Leech Lake*, pp. 4–5.

While the legislative history may not have provided the "clear guidance" desired, it did identify certain factors which should be taken into consideration in reaching a final determination regarding compliance with section 5(b)(3)(B):

"(1) The adequacy of the procedures and policies guaranteeing Indian input by the established school district; (2) adherence on the part of the local school district to these policies and procedures; and (3) the *meaningfulness* of Indian input based on the recommendations made by the Indian community, *the resulting program and the educational performance and improvement* of the Indian students in attendance at the local school district involved. All of these factors, are to be judged by a *reasonable* standard, which should take into account the progress which has taken place from the beginning of each application renewal period compared to the previous year." [Emphasis added.] (H. Rep. 1137, 95th Cong., 2d Sess. 115 (1978).—*Laguna*, p. 4; *Leech Lake*, p. 4.

In *Laguna*, the policies and procedures were found to be inadequate. The Assistant Secretary noted that while they demonstrated a commitment to "important general principles," they failed either to "provide detailed guidance" or to "specify procedures which can reasonably be expected to ensure that, given past experience, these policies will be effectively implemented." *Laguna*, p. 4. Periodic meetings and the forwarding of forms, memoranda, applications and evaluations were deemed insufficient "to remedy past educational inequalities and to institutionalize the serious dialogue that section 5(b)(3)(B) was intended to create." Id.

To remedy the inadequacies identified above, the LEA was directed to (1) formulate a plan to revise the policies and procedures; (2) include in the plan of identification of an impartial mediator to assist in the development of the policies and procedures; and (3) submit the revised policies and procedures which specify procedures for meeting the substantive requirements of section 5(b)(3)(B), to the Department for approval. Id. at p. 8.

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[14] See Decision of Oct. 3, 1980 (*Laguna*) and Decision of Nov. 10, 1980 (*Leech Lake*).

In *Leech Lake* the Assistant Secretary, applying basically the same minimum standard for compliance, found the policies and procedures to be adequate with two specific exceptions. First, the process for consultation between the LEA and the tribe and Indian parents in the development of the Public Law 81-874 application must be mandatory and not optional. Second, to ensure that an equal educational opportunity is provided, the LEA must expand provisions for consultation with Indian parents and tribes to include other education-related issues as disproportionate suspension rates in the policies and procedures to facilitate communication.

The third complaint interpreting the 1978 Amendments was filed by the Muskogee (Creek) Nation of Oklahoma on August 20, 1980, against the Wetumka Public School District. In *Wetumka*, the Tribe "complained that the LEA had not: formulated a plan to ensure the equal participation of Indian children in the education program of the LEA; disseminated applications, evaluations, or program plans to the tribe; or provided an opportunity for the tribe to present its overall views on the education program, the operation of such program, or the degree of parental participation allowed." *Wetumka*, p. 3.

In a decision dated July 29, 1981, the Assistant Secretary in large measure adopted the findings of the hearing examiner, who determined that the LEA had not met its responsibility of disseminating information to the tribe or providing the tribe and Indian parents with a meaningful opportunity to participate in the development of educational programs. The Assistant Secretary, however, revised the recommendations of the hearing examiner to make them consistent with the final regulations implementing section 5(b)(3), published in the Federal Register on January 22, 1982 (see FR 7196) and effective on March 30, 1983.[15]

Although the decision did not require the LEA to conduct a statistically valid study of dropout rates for Indians as requested by the tribe, the determination did require the LEA to revise its policies and procedures through which tribal leaders and parents of Indian children could express their concerns on the issues of disparate achievement levels and disparate drop out rates between Indian and non-Indian children in the LEA.

In the fourth and final administrative decision, dated June 15, 1982, involving a complaint filed by the Sisseton-Wahpeton Sioux Tribe (*Sisseton*), the Assistant Secretary determined that the LEA's recently revised policies and procedures were "in basic compliance with the minimum requirements of the law," with two minor exceptions. *Sisseton*, p. 3. First, the Assistant Secretary was concerned about the timeliness of the annual August pulic hearing to receive comments from Indian parents and tribal officials regarding the LEA's policies and procedures—specifically, implementation of the statutory goals of "equal participation of Indian children" and "adequate dissemination of appropriate materials"—since comments could not be considered and implemented for the upcoming school year. Id., p. 4.

Second, whether the "adequate dissemination" requirement was being met by the LEA's provision of materials to parents and tribes upon request. The statute clearly provides that the LEA establish a procedure for the actual dissemination of those materials.

The LEA has been given until July 15, 1982 to respond to the concerns of the Assistant Secretary.

Several general observations are evident from an analysis of these four decisions. First, from the earlier decisions such as *Laguna*, one can see that while the Department may not have had the "guidance" it felt it needed to review these complaints, under the circumstances the result obtained opened the door to an equitable resolution of the problem. The decision of the Assistant Secretary—in that case calling for mediated and negotiated development of policies and procedures—made possible "serious dialogue" between the parties. This in contrast to the *Sisseton* case, where the Assistant Secretary denied a request by the tribes to negotiate with the LEA to reach an agreement regarding the establishment of new policies and procedures. The more mechanical approach under the implementing regulations and its ease of administration may be more appealing to the Department and the LEAs yet may, in fact, result in far less "serious dialogue" between disputing parties.[16]

Second, the earlier decisions such as *Laguna* and *Leech Lake* attempted to develop a flexible framework for compliance with seciton 5(b)(3). The decisions in those cases began to address such questions as what constitutes meaningful Indian input; equal participation in educational programs, adequate dissemination of applications, eval-

[15] See, in particular, the discussion of § 223.10-223.11 regarding policies and procedures, supra, in section 111.

[16] See paragraph 2, infra, for a continued discussion of the necessity of negotiation and mediation in resolving disputes.

uations and program plans; or active consultation and involvement in program development.

The shortcoming of the implementing regulations, however, has been in their failure to define specific standards of compliance which reduce the level of discretion available to the Department and the LEAs. As a result, from *Wetumka* and *Sisseton*, one observes the mechanical application of regulations infused with vague standards at best or, more often, reliance on boilerplate language appearing in the 1978 Amendments. In essence, mere repetition of the magic language from the statute and implementing regulations in the Impact Aid application virtually assures an LEA of compliance while thwarting the true intent behind the notion of Impact Aid.

As a restatement of the problem, the ultimate objective of the 1978 Amendments was the provision of equal participation in educational programs for Indian children, to insure equal educational opportunity. The means to achieving that objective include maximum tribal and Indian parental input into the development of educational programs. As written and enforced, the implementing regulations, however, treat maximum input as the ultimate goal, not the means to achieving it.

In practice, then, many public school districts applying for and receiving the Impact Aid entitlement can and need only demonstrate nominal compliance with federal statutory requirements. They have developed "policies and procedures", often-time with no input whatsoever from affected tribes and Indian parents. The document often merely paraphrases those items which, by the terms of Public Law 95-561, must be included in the policies and procedures and attached to the annual proposal for funding submitted to the Department of Education. Upon receipt of the proposal with the attached policies and procedures document, the Department does not take the affirmative step of attempting to determine whether the applying district is actually in compliance with the law. In the unlikely event a complaint is filed, the absence of more stringent compliance procedures and more clearly defined standards frustrates any attempt to get to the heart of the problem and achieve substantive change.

B. The utility of negotiation and mediation.—It would appear that once an LEA is found not to be in compliance with federal requirements, an appropriate remedy would be for the Department to require negotiation (with mediation, if appropriate under the circumstances) and to accept a revision only when agreed to by all involved parties. In the *Wetumka* case, the Tribe requested the Department to order the LEA to negotiate the revision to the policies and procedures. Indeed, the Tribe attached a draft policies and procedures document which it had previously proposed to the LEA as a substitute for the one in effect. The Department failed to order such negotiation and the LEA was allowed to revise its policies and procedures unilaterally. The final revision did not adopt any of the Tribes recommendations. In many instances, information such as data on Indian dropout rates compared with non-Indian rates, or such as data on Indian achievement levels with non-Indian levels, is simply not complied by the school. The raw data to compile such general comparative studies is usually protected by Privacy Acts. In some instances, LEAs narrowly define the kinds of information required to be disseminated under the Act and regulations, e.g., the LEA does not prepare any document called a "program plan" or an "evaluation" is not defined to include achievement level studies.

In the *Sisseton* case the Tribe strongly urged the Department to direct that the involved parties negotiate the necessary revision to the policies and procedures. The Department refused to do so and, as expected, the school district ignored tribal and parental input in developing the revision which was almost identical to the original deficient document. Whether the revised policies and procedures comply with the federal statute and regulations is still an open question.

C. The tribes' need for meaningful information.—The tribal complaint procedure contains no provision for discovery of relevant materials. Tribal representations in prosecuting an impact aid complaint are at a distinct disadvantage since practically all information necessary to document a case is in the possession of the public school district. The problem of a lack of meaningful information is ironic since one requirement is that the school disseminate material relevant to fulfilling the purposes of the amendment. When one is dealing with a recalcitrant school district, in an adversary proceeding, school officials find no difficulty in blocking efforts to obtain documentation even though the requested materials are the very ones required by Public Law 95-561 to be disseminated to tribal officials and Indian parents.[17] As noted, in some instances, the school has simply not bothered to ascertain

[17] 20 U.S.C. § 240(b)(3)(C)(iii).

how the Indian students are progressing vis-a-vis non-Indian students. Data such as dropout rates is either unavailable or defined in such a manner as to obscure or avoid the problem.

This problem could be alleviated by adopting regulations which define more specifically the kinds of information required to be disseminated.

D. Confusion of legal standards.—The Hearing Examiner, appointed to render the initial decision and recommendation to the Assistant Secretary,[18] has in two of the four proceedings erroneously assumed that the complaining tribe must prove a case of racial discrimination similar to those prosecuted under Title VI of the Civil Rights Act of 1964.[19] The legal standard which must be met in such a case involves proving discriminatory intent as well as discriminatory effect. *Washington* v. *Davis*, 426 U.S. 229, 240 (1978). As a practical matter, this is an impossible standard under the Impact Aid procedure and there is no evidence that this was contemplated by Congress, in enacting the equal participation assurance requirement.[20] Indeed, the burden of proof under this provision is properly placed on the school districts to demonstrate regularly that its policies and procedures operate to raise or maintain the levels of participation of the Indian students equal to that of the non-Indian students in the basic school program. (See discussion, supra, on information required to be disseminated).

E. LEA failure to comply.—Although it has not happened thus far, a school district could conceivably refuse to comply with departmental directives. If so, the tribe has the option under § 1101(d) and § 223.42(a) to elect to establish a tribal contract school or to have the BIA provide the necessary educational services. While the contract school option might suit the needs of larger tribes, as a practical matter, it is not an available remedy for smaller tribes because of the problems associated with obtaining adequate funding to open small independent schools.

Apparently, because the onus here switches from the Department of Education to the BIA to provide the funding necessary to educate the Indian students, the BIA has neglected to develop the appropriate and required regulations to properly effectuate such a switchover.

F. Departmental standards of compliance and enforcement.—The Final Decision in the Impact Aid Tribal complaint procedure is by the terms of the statute, in the hands of the Secretary, and it has been delegated to the Assistant Secretary for Elementary and Secondary Education. Both of these positions are Presidential appointees and presumably subject to the political leanings of the Administration. The most recent decision, and the only decision thus far rendered by Assistant Secretary Davenport, reflects the less than vigorous enforcement attitude of the present Administration.

In the *Sisseton* case, discussed above, the Tribe and a local parent group alleged that the Sisseton School District had not complied with the Impact Aid requirements. The Indians there presented what appeared to be a strong case of non-Indian school board rejection of Indian and parental input in a district comprised of 53 percent Indian students.

The results were evidenced by significantly lower achievement rates for Indians, and inter alia, drop out rates 2-3 times that of the non-Indian students.

The Indians vigorously prosecuted the case to the Hearing Examiner and to the Assistant Secretary. However, against the strong weight of the evidence, Assistant Secretary Davenport recently ruled that with a few minor exceptions, that the school district was in "basic compliance with the minimum requirements" of the law. Thus tribal and parental efforts to assist and to positively impact the troubled Indian educational situation at Sisseton were thwarted by the Department's utilization of a tax standard of compliance nowhere contemplated by the Congress.

V. Conclusion

Revision of the Impact Aid procedure is necessary in order to carry out the Congressional mandate announced in the 1978 Amendments. This is particularly so because the regulations, as written and enforced, allow for a less than vigorous enforcement of Congressional directives.

A requirement for tribal sign-off authority on the funding proposal would ensure that school districts properly obtain the necessary Indian input into all facets of the school program funded by Impact Aid monies. Anything short of sign-off authority

[18] 20 U.S.C. § 240(b)(3)(C)(iv).
[19] *Wetumka*, and *Sisseton*, tribal complaint proceedings.
[20] 20 U.S.C. § 240(b)(3)(C)(i).

must necessarily incorporate the suggestions made above, and possibly others, to accomplish the objectives of the 1978 Amendments.

NCAI Indian Education

The National Congress of American Indians, the nation's oldest and largest Indian advocacy organization, is pleased to submit the following comments in reference to recently held Education and Labor Committee Hearings regarding the federal Impact Aid program.

As NCAI sees it, the most pressing Impact Aid-related issue facing the Tribes is State equalization and the effect equalization has on the distribution of federal Impact Aid dollars to schools serving Indian students. Attachment A, an NCAI position statement entitled "Full Funding under Public Law 81-874 ("Impact Aid")", outlines some of the background to the equalization problem. Attachment B, an NCAI position statement entitled "Resolution Opposing State Equalization of Impact Aid Funds", details the line of action NCAI's member Tribes have recommended be taken in response to these needs. In this resolution, NCAI calls on the Congress to amend Public Law 81-874, so that all Impact Aid funds above the base rate awarded to a school district because of its location on federally protected Indian lands will in fact be received by that school district.

NCAI is aware that an alternative solution to this problem has been proposed to the Committee. Under that recommendation, changes would be made in the Impact Aid regulations and not within the text of the legislation itself. Those changes in regulation would not challenge the several states' right to implement equalization of school-finance funds. The changes would only require that states acknowledge, in their equalization plans, the differences which characterize rural and isolated schools vs. urban school districts; and then adjust the terms of their redistribution of funding in accordance with those acknowledged differences. NCAI's member Tribes have been asked to examine this alternative and we will be pleased to keep the Subcommittee informed regarding their evaluation. In the meantime, however, NCAI voices concern, first because the alternative does not require a change in the legislation, and therefore is not nearly as permanent as the solution proposed in Attachment B; and second, because the alternative proposal leaves the final resolution to the equalization problems to State governments, thereby by-passing the solemn responsibilities and obligations of the Federal government to ensure adequate funding for the education of Indian students. Attachment B makes it clear that support for Indian Education through the Impact Aid program is, and must continue to be, a federal commitment. Attachment B makes it clear that Impact Aid is a program which provides financial assistance to military and to Indian schools. Attachment B underscores the government-to-government relationship which the Administration's White House Policy Statement on Indian Affairs recently reaffirmed. This is why, until advised to do otherwise by the Tribes, NCAI continues to endorse the legislative amendments for Public Law 81-874 as described in Attachment B.

Attachment A

9. Full Funding Under Public Law 81-874 ("Impact Aid")

Problem: Current developments in Washington, DC would indicate that Public Law 81-874, as amended by Public Law 95-561 and commonly known as the Impact Aid program, is having its funding level seriously threatened by the ill-considered wave of budget cuts throughout federal education programs.

There are two particular problem-areas associated with the threatened cuts in Impact Aid funding for fiscal year 1982.

First, it should be noted that Impact Aid is exceedingly important to all Indian Schools in the country. Several facts about Indian public school reliance on Impact Aid money can be noted, including:

(1) School districts serving eligible Indian students number 722 in 24 states;

(2) Indian students in these districts total 93,981 pupils;

(3) Impact Aid provides an average of 11 percent of the budget of these schools;

(4) In 128 districts, Impact Aid provides 20-40 percent of the basic budgets of these schools;

(5) In 26 districts, Impact Aid provided over 50 percent of the basic budget;

(6) In 122 districts, eligible "A" students were 20 percent-49 percent of the total enrollments;

(7) In 105 districts, eligible "A" students were more than 50 percent of the total enrollment.

Hence, if Impact Aids is cut off or severely limited, these schools may be forced to cease operation or at least to cut drastically the educational opportunities available to Indian students within their programs.

The amendment to Public Law 81-874, Title XI, Public Law 95-561, provides significant opportunities for Tribal governments to be involved in the educational curricula at Indian public schools throughout the nation. Public Law 95-561 allows Indian students, Indian parents and indian Tribes meaningfully to affect the education offered at public schools on or near Indian reservations. As such, the Impact Aid Act is of paramount importance to the entire structure of Indian education.

Second, but of equal importance, is the issue that several states with heavy Indian populations have recently been granted authority by high Department of Education officials to include Impact Aid dollars as a major portion of the state's contribution or share of the total budget for public schools on Indian reservations. This authority has the effect of permitting the several states to eliminate or reduce the amount of money available to public schools on Indian reservations. Program quality in these schools then becomes affected, accordingly.

Third, many state governments, such as Nebraska, have taken a position of opposition to budget cuts in Impact Aid funding; they have likewise opposed any shift of such a recognized federal responsibility—support for Indian education services—from the federal to the state and local levels. (See attached).

Conclusions: The elimination or severe reduction in Impact Aid funds for fiscal year 1982 would have an immediate and disastrous effects upon all Indian school districts. Budgets for fiscal year 1982 at local levels have been approved, tax rates have been set, contracts have been signed, and school has started. If Congress should significantly reduce the amount of Impact Aid included in the already adopted budgets of these districts, many of them would not be able to remain open for the entire school year.

Hence any formula considered in the allocation of Impact Aid money should recognize that Impact Aid has been one of the major ways in which the federal government has partially met its treaty and trust obligations to Indian Tribes. Any allocation formula that would discriminate against Indian impacted districts in favor of military impacted districts is an outright breach of the treaty and trust responsibility of the federal government to Indian Tribes.

As a result of the authority granted by the Department of Education, several states now count Impact Aid as a state contribution via the Equalization format and more states are attempting to receive sanction under this provision. In essence this process allows states to claim the additional entitlement for children residing on tax-exempt Indian lands and to ignore the educational problems of rural isolation and other issues pertinent to school operations on or near Indian reservations.

Both the proposed alterations in the federal funding formula and the negative effects of state equalization formats pose serious threats to Tribal services in Indian education under the Impact Aid program.

RECOMMENDATIONS

1. The National Congress of American Indians should reject the Administration's attempt to cut or otherwise limit Impact Aid funds and should remind the Congress that the federal trust responsibility in education would be violated should the Administration's budget cuts be effected.

2. The National Congress of American Indians should respectfully request the Congress to challenge the Department of Education's questionable granting of authority to the States, which allows them to discriminate against Indian impacted school districts. The National Congress of American Indians should also respectfully request that the Congress admonish the Department of Education in its outright breach of trust and treaty responsibilities in this matter.

This position statement was adopted by unanimous vote of the General Assembly at the 38th annual convention of the NCAI, October 16, 1981, Anchorage, AK.

ATTACHMENT B

EDUCATION RESOLUTION REGARDING PROPOSED LEGISLATIVE AMENDMENTS FOR PUBLIC LAW 81-874 ("IMPACT AID")

Whereas, the State of Arizona has imposed a limit on the amount of impact aid which school districts serving Indian children may spend for operation and such limit is determined without regard to the school districts' higher fixed operating

costs or the federal Indian self-determination policy as it is expressed in the Impact Aid program; and

Whereas, on March 24, 1983, the State of Arizona received initial permission from the U.S. Department of Education to equalize Impact Aid for the fiscal year ending October 31, 1983, with the result that, unless the Department's decision is reversed on appeal, Arizona will withhold millions of dollars in state assistance which would otherwise be paid to the school districts educating Indian students for operating expenses this school year and will continue to withhold comparable amounts in future yers; and

Whereas, the decision to allow the State of Arizona to equalize Impact Aid had the dual effect of, first, taking from those school districts educating Indian children revenue needed to meet its higher-fixed operating costs and, second, nullifying the federal Indian self-determination policy as it is expressed in the Impact Aid program; and

Whereas, the effect of Arizona's school district spending limit and the federal decision to allow equalization of Impact Aid is to deny equal educational opportunity to Indian children and make it impossible for the Indian Tribes to implement the Federal Indian self-determination policy in the public schools serving these Indian children; and

Whereas, these events in the State of Arizona set a dangerous precedent for the redirection of Impact Aid monies given to eligible school districts serving Indian students in other states; and

Whereas, there have been proposed certain draft amendments to the federal Impact Aid law (hereafter referred to as proposed Impact Aid amendments) which would, first enable reservation school districts to spend a portion of their Impact Aid without regard to Arizona's expenditure limitations and, second, prevent a portion of Impact Aid from being equalized, and third, empower Tribal governments to play a greater role in the Impact Aid program; and

Whereas, the proposed Impact Aid amendments are described in a document entitled "Summary of 3/7/83 Draft Impact Aid Amendments" which is attached hereto and incorporated herein by reference; and

Whereas, the Civil Rights Division of the United States Department of Justice is currently considering whether it will take measures to address the Impact Aid problem described here, so as to protect the civil rights of Arizona's Indian people and prevent state law from blocking implementation of the federal Indian self-determination policy.

Now therefore be it Resolved that:

(1) The National Congress of American Indians endorse the concepts expressed in the proposed Impact Aid amendments here attached and respectfully request the U.S. Congress and the President of the United States to amend the law accordingly;

(2) The NCAI authorize and direct the staff of the national office and the members of the Executive Committee to take whatever actions may be necessary to secure enactment into law of the concepts expressed in the proposed Impact Aid amendments; and

(3) The NCAI request the Civil Rights Division of the U.S. Department of Justice to use its resources to oppose by all available means Arizona's spending limits as they apply to Impact Aid funding.

This resolution was adopted by unanimous vote of the Executive Committee at the Midyear Conference of the NCAI, May 4, 1983, Minneapolis, Minnesota.

[Presented to the NCAI Midyear Conference General Assembly, Tuesday, May 3, 1983]

SUMMARY OF 3/7/83 Draft Impact Aid Amendments

The attached amendments have three interrelated purposes: a) enable reservation school districts to spend a portion of their impact aid payments without regard to Arizona's expenditure limitations; b) prevent a portion of impact aid from being equalized (used in place of state aid that is normally paid to school districts); c) empower tribal governments to play a greater role in the impact aid program.

1. The amendments target "heavily impacted" school districts, namely those with 20 percent or more of their students residing on Indian lands or military reservations. A portion of the impact aid these districts receive each year is labelled "categorical" impact aid and singled out for special treatment, as described below.

2. The amount of a heavily impacted school district's categorical impact aid is the sum of a) the 25 percent impact aid add-on for Indian students, b) the 50 percent impact aid add-on for handicapped students, and c) an amount of impact aid which, when added to available local taxes, is sufficient to fund a Maintenance and Oper-

ation budget override to the maximum extent permitted under state law. In the current year at Indian Oasis-Baboquivari, categorical impact aid would equal about $645,700 (25 percent Indian add-on, $385,000; 50 percent handicapped add-on, $14,100; 10 percent of Revenue Control Limit, $246,600). This is 42 percent of all impact aid payments the Papago school district expects to receive this year.

3. Categorical impact aid may be budgeted and spent by heavily impacted school districts for Maintenance and Operation or Capital Outlay without regard to the aggregate school district expenditure limitation in Arizona Constitution, Article 9, Section 21 or any statutory school district expenditure limitation. These provisions apply to Arizona in the current federal fiscal year (ending September 30, 1983) and to all states thereafter.

4. Categorical impact aid may not be equalized. This provision applies to Arizona in the current federal fiscal year and to all states thereafter.

5. School districts are required to account for categorical impact aid separately from all other revenues. School districts may, without restriction, carry over from one fiscal year to the next unspent categorical impact aid. Categorical impact aid carryovers (plus interest) can be spent for Maintenance and Operation or Capital Outlay at any time without regard to state expenditure limitations. The state law requiring that year-end balances of school district funds substitute for the tax levy in the next fiscal year is not applicable to categorical impact aid carryovers. These provisions apply to Arizona in the current federal fiscal year and to all states thereafter.

6. In any federal fiscal year, no state may equalize impact aid payments from the prior federal fiscal year. At Indian Oasis-Baboquivari, this saves from equalization in 1983 about $360,000; the money is spendable for Capital Outlay.

7. Indian tribal governments will receive advance notice of a state's application to equalize impact aid; the tribes may challenge the application administratively or judicially. A state receiving initial approval to equalize impact aid may not withhold state aid payments until all administrative appeals are exhausted.

8. Indian tribal governments may seek administrative or judicial review of any USDOE decision relating to impact aid, including the method of calculating the local contribution rate (20 USC 5 238 d 3)